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STATUTORY INSTRUMENTS

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**1969 No. 790**

**PENSIONS**

**The Superannuation (Scottish Teaching and English  
Local Government) Interchange Rules 1969**

<i>Made</i>	- - - -	<i>4th June 1969</i>
<i>Laid before Parliament</i>		<i>20th June 1969</i>
<i>Coming into Operation</i>		<i>23rd June 1969</i>

The Secretary of State, with the consent of the Minister for the Civil Service, and the Minister of Housing and Local Government, acting jointly, in exercise of the powers conferred on them by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act 1948 as amended by section 11 of the Superannuation (Miscellaneous Provisions) Act 1967 and as read with the Minister for the Civil Service Order 1968(1), and of all other powers enabling them in that behalf, hereby make the following rules:—

**PART I**  
**GENERAL**

**Citation and Commencement**

1. These rules may be cited as the Superannuation (Scottish Teaching and English Local Government) Interchange Rules 1969 and shall come into operation on 23rd June 1969.

**Interpretation**

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

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

“the Act of 1909” means the Asylums Officers' Superannuation Act 1909;

“the Act of 1937” means the Local Government Superannuation Act 1937;

“the Act of 1953” means the Local Government Superannuation Act 1953;

“the Acts of 1937 to 1953” means the Local Government Superannuation Acts 1937 to 1953(2);

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(1) (1968 III, p. 4485).

(2) 1937 c. 68; 1939 c. 94; 1953 c. 25.

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“added years” means, in relation to local government employment, any additional years of service reckonable under regulation 12 of the Benefits Regulations or any corresponding provision of a local Act scheme 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 sections 2 and 15 of the Act or any other enactment;

“the Benefits Regulations” means the Local Government Superannuation (Benefits) Regulations 1954<sup>(3)</sup>;

“fund authority” means a local authority maintaining a superannuation fund to which a person either becomes a contributor after ceasing to be employed in teaching service or, as the case may be, was last a contributor before he became employed in teaching service;

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

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

“Local Government Modification Regulations” means the National Insurance (Modification of Local Government Superannuation Schemes) Regulations 1947<sup>(4)</sup> and any provisions contained in the Benefits Regulations or in a local Act scheme or in a scheme made in relation to a local Act replacing wholly or in part the provisions of the first-mentioned regulations;

“national service”, in relation to any person, means service which is relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 and any similar service immediately following relevant service entered into with the consent of the authority or person by whom he was last employed or, as the case may be, appointed to an office before undertaking that service;

“operative date” means the date of the coming into operation of these rules;

“pension” has the meaning assigned to it by the Act;

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

“reckonable service” means such service as is by virtue of the Teachers Regulations of 1969 reckonable service for all the purposes of Part I of the Teachers Superannuation (Scotland) Act 1968;

“repaid contributions” means any sum paid to a person under the Teachers Schemes, the Teachers Regulations of 1957, the Teachers Regulations of 1969, the Acts of 1937 to 1953 or a local Act scheme by way of repayment of contributions (other than voluntary contributions and contributions made or deemed to be made for the purpose of securing benefits for a widow, children or other dependants); and includes both any interest included in such sum and any amount deducted therefrom in respect of liability to income tax arising by reason of the payment ;

“the Teachers Regulations of 1957” means the Teachers (Superannuation) (Scotland) Regulations 1957<sup>(5)</sup> as amended<sup>(6)</sup>;

“the Teachers Regulations of 1969” means the Teachers Superannuation (Scotland) Regulations 1969<sup>(7)</sup> as amended<sup>(8)</sup>;

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(3) (1954 II, p. 1595).

(4) (Rev.XVI, p. 273: 1947 I, p. 1498).

(5) (1957 I, p. 733).

(6) S.I. 1958/1595, 1963/2111, 1965/1166, 1966/1229, 1967/1736 (1958 I, p. 1077; 1963 III, p. 4685; 1965 II, p. 3284; 1966 III, p. 3295; 1967 III, p. 4657).

(7) (1969 I, p. 133).

(8) S.I. 1969/659.

“the Teachers Schemes” means the Superannuation Scheme for Teachers in Scotland dated 5th June 1919<sup>(9)</sup>, the Superannuation Scheme for Teachers (Scotland) 1926<sup>(10)</sup> and the Superannuation Scheme for Teachers (Scotland) 1952<sup>(11)</sup>;

“teaching service” means—

- (a) reckonable service; or
- (b) service which for the purposes of the Teachers Regulations of 1969 is service as an organiser;

“the Transfer Value Regulations” means the Local Government Superannuation (Transfer Value) Regulations 1954<sup>(12)</sup>;

“voluntary contributions” means—

- (a) in relation to employment in teaching service, additional contributions being paid under regulation 9 of the Teachers Regulations of 1957 or regulation 31 of the Teachers Regulations of 1969 in respect of a period of previous employment and any contributions being paid as a condition of any other period (not being a period of war service within the meaning of the Education (Scotland) (War Service Superannuation) Act 1939 or of national service) being reckoned as reckonable service; and
- (b) in relation to local government employment, 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 section 2(3) and (4) 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; and
  - (iv) any payments made in respect of added years.

(2) For the purposes of these rules a justices' clerk shall be deemed to be in the employment of the magistrates' courts committee or committee of magistrates by whom he is, or under the provisions of any enactment is deemed to have been, appointed, and in relation to any such person references to “employment” shall be construed accordingly.

(3) Other expressions which have meanings assigned to them by the Acts of 1937 to 1953 or the Teachers Regulations of 1969 have, unless the context otherwise requires, the same respective meanings for the purposes of these rules.

(4) Any reference in these rules to the provisions of any enactment, rules, regulations or other instrument shall, unless the context otherwise requires, be construed as a reference to those provisions as amended, modified, affected or re-enacted by any subsequent enactment, rules, regulations or instrument.

(5) References in these rules to a rule or to a Part shall, unless the context otherwise requires, be construed as references to a rule or to a Part of these rules, as the case may be.

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<sup>(9)</sup> (1919 I, p. 688).

<sup>(10)</sup> (1926 p. 449).

<sup>(11)</sup> (1952 I, p. 873).

<sup>(12)</sup> (1954 II, p. 1723).

(6) The Interpretation Act 1889 shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

### **Prescribed Period**

**3.—(1)** For the purposes of these rules, subject as hereafter in this rule provided, the expression “prescribed period” shall mean—

- (a) in the case of a person who, immediately after ceasing to be employed in teaching service or local government employment, became engaged in national service, a period of six months after the date of termination of the national service;
- (b) in the case of a person to whom section 6 of the Act has become applicable, a period of five years after the date on which he ceased to be employed in local government employment or such longer period as the Minister of Housing and Local Government may in any particular case allow; and
- (c) in the case of any other person, a period of twelve months after the date on which he ceased to be employed in teaching service or local government employment.

(2) The Secretary of State in the case of a person entering teaching service and the fund authority in the case of a person entering local government employment may, with the agreement of the other, extend the period of six months or twelve months, whichever is appropriate, specified in paragraph (1) of this rule.

(3) Subject as in paragraph (4) of this rule provided—

- (a) in reckoning the periods of six months and twelve months specified in paragraph (1) of this rule no account shall be taken of any period spent by a person on a course of study or training which he undertook after leaving his former employment; and
- (b) if a person left his former employment in order to undertake a course of study or training and on completion of that course became engaged in national service, he shall be deemed for the purposes of paragraph (1) of this rule to have left his former employment at the time when he completed the said course of study or training.

(4) The provisions of paragraph (3) of this rule shall not apply to a person who in his new employment is in local government employment unless the authority employing him are satisfied, or to a person who in his new employment is in teaching service unless the Secretary of State is satisfied, that by reason of his having undertaken the said course of study or training he is better fitted for the duties of his new employment.

## **PART II**

### **TRANSFER FROM TEACHING SERVICE TO LOCAL GOVERNMENT EMPLOYMENT**

#### **Application**

**4.—(1)** Except as hereinafter provided, this Part shall apply to a person who—

- (a) enters, or before the operative date entered, local government employment within the prescribed period after ceasing to be employed in teaching service;
- (b) before or within three months after entering local government employment or within six months after the operative date, whichever period shall last expire, or within such longer period as the fund authority may with the agreement of the Secretary of State in any particular case allow, notifies that authority in writing that he desires this Part to apply to him and furnishes that authority with particular case allow, notifies that authority in writing

that he desires this Part to apply to him and furnishes that authority with particulars in writing of any national service in which he has been engaged since ceasing to be employed in teaching service; and

- (c) within three months after entering local government employment or within six months after the operative date, whichever period shall last expire, or within such longer period as the fund authority may in any particular case allow, pays to that authority an amount equal to any repaid contributions paid to him after he last ceased to be employed in teaching service, together with any compound interest thereon payable in accordance with paragraph (2) of this rule.
- (2) For the purposes of paragraph (1)(c) of this rule—
- (a) compound interest shall not be payable unless the period between a person's ceasing to be employed in teaching service and entering local government employment exceeds one year;
  - (b) compound interest shall be calculated on the amount of the repaid contributions at three per cent per annum with half-yearly rests from the day one year after that on which the person ceased to be employed in teaching service or from the day on which repaid contributions were paid to him, whichever shall be the later, to the day on which he notified the fund authority as required by paragraph (1)(b) of this rule; and
  - (c) if the amount of compound interest calculated as aforesaid exceeds a sum equal to one half of the difference between the amount of the transfer value payable under rule 6 and the amount of the transfer value which would have been so payable if calculated by reference to the person's age on ceasing to be employed in teaching service, it shall be reduced to that sum.

### **Excepted Cases**

5. This Part shall not apply to a person who—
- (a) has received payment of any pension (other than repayment of contributions) under the Teachers Schemes, the Teachers Regulations of 1957 or the Teachers Regulations of 1969;
  - (b) is a person in respect of whom a transfer value has been paid otherwise than under these rules by the Secretary of State since he last ceased to be employed in teaching service;
  - (c) last ceased to be employed in teaching service before 4th February 1948; or
  - (d) last ceased to be employed in teaching service on or after 4th February 1948 but before the operative date, unless—
    - (i) he has been employed in local government employment without a break of twelve months or more at any one time from the date when he ceased to be employed in teaching service until the operative date or, if he ceased to be employed in local government employment before the operative date, until the date when he so ceased; and
    - (ii) if he ceased to be employed in local government employment before the operative date, the Secretary of State and the local authority maintaining the fund to which he was last a contributor agree that this Part shall apply to him.

### **Transfer Value**

6.—(1) In respect of a person to whom this Part applies the Secretary of State shall, out of moneys provided by Parliament, pay to the fund authority a transfer value of an amount calculated in accordance with the following provisions of this rule.

(2) Subject as hereafter in this rule provided, the transfer value shall be an amount equal to the transfer value which would have been payable under the Transfer Value Regulations if the person, at the date when he ceased to be employed in teaching service, had ceased to be a contributory employee under one local authority and had become such an employee under another local authority in the circumstances described in section 29 of the Act of 1937 and had been entitled to reckon as contributing service his reckonable service and his service reckonable for the purposes of Part VII of the Teachers Regulations of 1969.

(3) For the purpose of calculating the amount of a transfer value any period of service which, having originally been non-contributing service or non-contributing service for the purposes of regulations made under section 67 of the National Health Service Act 1946 or section 66 of the National Health Service (Scotland) Act 1947, became reckonable as reckonable service by virtue of such regulations or of rules made under section 2 of the Act shall be treated as non-contributing service.

(4) For the purposes of paragraph (2) of this rule service which is reckoned as contributing service shall be deemed to have been affected or modified in accordance with regulations applicable to contributing service made under section 110 of the National Insurance Act 1965, or under any provision corresponding thereto contained in an enactment repealed by that Act, in like manner and to the like extent, as nearly as may be, as it was affected or modified by other such regulations.

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

- (a) any period of war service within the meaning of the Education (Scotland) (War Service Superannuation) Act 1939 and of national service within the meaning of the Teachers' Pensions (National Service) (Scotland) Rules 1952(13) in respect of which, at the time the transfer value is paid, the contributions remain unpaid; and
- (b) any period of previous employment and any period additional to actual service in respect of which the person was immediately before ceasing to be employed in teaching service paying voluntary contributions and in respect of which, at the time the transfer value is paid, he has not elected to continue to pay such contributions.

(6) In respect of a person who ceased to be employed in teaching service more than one year before the operative date the amount of the transfer value shall, except in a case to which paragraph (7) of this rule applies, be—

- (a) calculated by reference to his age on the operative date; and
- (b) where either paragraph (2) or paragraph (3) of rule 3 applies, reduced by the amount of any compound interest payable by him in accordance with rule 4(2).

(7) In respect of a person who became employed in local government employment on or after the operative date and where either paragraph (2) or paragraph (3) of rule 3 applies the amount of the transfer value shall be—

- (a) calculated by reference to his age on the date on which he became employed in local government employment; and
- (b) reduced by the amount of any compound interest payable by him in accordance with rule 4(2).

### **Reckoning of Service**

7.—(1) Subject as hereafter in this rule provided, so much service as is taken into account under rule 6 for the purpose of calculating the amount of the transfer value payable in respect of a person shall be reckoned as contributing service or as service under a local Act scheme or a period of contribution for the purposes of such a scheme.

(2) So much service as is taken into account as non-contributing service under rule 6 for the purpose of calculating the amount of the transfer value payable in respect of a person shall be reckoned as non-contributing service.

(3) Any service of a person to whom this Part applies which under the Teachers Regulations of 1969 is reckonable only for the purpose of calculating the amount of any pension payable to or in respect of him or only for the purpose of determining whether he is entitled to any pension shall be reckoned only for the corresponding like purpose under the Acts of 1937 to 1953 or a local Act scheme.

(4) Except as in this rule before provided, a person to whom this Part applies shall not be entitled under section 12(2) of the Act of 1937 or any corresponding provision of a local Act scheme to reckon as service any local government employment prior to the date on which he became employed in teaching service if,

- (a) a transfer value has been paid in respect of that local government employment under rule 17 or under any corresponding provision contained in other rules made under section 2 of the Act, or
- (b) a transfer of assets in respect of his accrued pension rights has been made out of a local authority's superannuation fund under any enactment.

### **Voluntary Contributions**

**8.—**(1) A person to whom this Part applies may elect to continue to pay voluntary contributions being paid by him immediately before ceasing to be employed in teaching service.

(2) If a person elects as aforesaid and—

- (a) within three months of becoming employed in local government employment, or within such longer period as the fund authority may in any particular case allow, pays to that authority a sum equal to the aggregate of any sum paid to him by way of return of voluntary contributions on or after ceasing to be employed in teaching service, any interest added thereto and any amount deducted therefrom in respect of liability to income tax by reason of the payment, and
- (b) thereafter pays to that authority any amounts outstanding in respect of those voluntary contributions at the times at which and in the manner in which they would have been payable if he had remained in teaching service,

his local government employment shall be affected in the manner prescribed by the following provisions of this rule.

(3) In respect of voluntary contributions made in respect of any period of previous employment and any period additional to actual service, the person 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 employment under regulation 12 of the Benefits Regulations or, if in his local government 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 (**14**) as are contained in that scheme.

(4) In respect of voluntary contributions other than those to which paragraph (3) of this rule applies, the person shall be treated as if those contributions had been completed immediately before he ceased to be employed in teaching service.

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(14) (1954 II, p. 1676).

### Computation of Contributions

9.—(1) Where a person to whom this Part applies ceases to be employed in local government employment or dies, then, in calculating any amount payable to or in respect of him by way of return of contributions, the amount of this contributions in respect of service reckonable in accordance with rule 7(1) shall be taken to include such amount as would have been payable by way of return of contributions under the Teachers Schemes or the Teachers Regulations of 1957 or the Teachers Regulations of 1969 if, on his ceasing to be employed in teaching service, he had been entitled to be repaid his contributions without interest.

(2) Where an amount payable by way of return of contributions or by way of benefit is a sum equal to, or which falls to be calculated by reference to, the amount of a person's contributions with compound interest thereon, compound interest shall also be payable in respect of the amount by which those contributions are increased under the last preceding paragraph, calculated—

- (a) as respects the period ending immediately before the day on which he entered local government employment, at the rate at which it would have been calculated under the Teachers Schemes or the Teachers Regulations of 1957 or the Teachers Regulations of 1969, as the case may be, if on ceasing to be employed in teaching service he had been entitled to a return of contributions together with compound interest thereon; and
- (b) as respects the period beginning with the date on which he entered local government employment, in accordance with the provisions of section 10 of the Act of 1937 or, as the case may be, the corresponding provisions of the relevant local Act scheme.

(3) Notwithstanding anything in this rule previously contained, the sum by which contributions are increased by virtue of paragraph (1) or (2) of this rule shall not include—

- (a) any sum in respect of contributions which, on or after the person's ceasing to be employed in teaching service, were returned to and retained by him; or
- (b) any amount in respect of voluntary contributions which are not continued in pursuance of rule 8 of these rules.

### Benefits under Teachers Regulations of 1969

10. Subject to the provisions of Part III and of other rules made under section 2 of the Act, no payment of any pension shall be made under the Teachers Regulations of 1969 to any person or his personal representatives in respect of any service which is taken into account in calculating the amount of a transfer value under rule 6.

### Modification of Contributions and Benefits by reason of National Insurance

11.—(1) The modifications for which the Local Government Modification Regulations provide shall not apply to a person to whom this Part applies if either—

- (a) he ceased to be employed in teaching service before 1st February 1969 and at the time of so ceasing was not subject to the national insurance modifications; or
- (b) he ceased to be employed in teaching service on or after 1st February 1969 and at the time of so ceasing was not subject to paragraph 3 of Schedule 5 to the Teachers Regulations of 1969.

(2) Without prejudice to the operation of the National Insurance (Modification of Local Government Superannuation Schemes) No. 2 Regulations 1961<sup>(15)</sup>, the modifications for which the Local Government Modification Regulations provide shall apply to any other person to whom this Part applies as if any service reckonable in accordance with rule 7(1) were service for the purposes

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<sup>(15)</sup> (1961 I, p. 1031).



of the Acts of 1937 to 1953 or service for the purposes of a local Act scheme, as the case may be, rendered on or after 5th July 1948.

(3) Where any pension which might have become payable under the Teachers Schemes or the Teachers Regulations of 1957 to a person to whom this Part applies would have been subject to the national insurance modifications by reference to a table and his age at a given date, the provisions of the Local Government Modification Regulations modifying pensions in similar manner shall apply to that person and for that purpose the relevant date shall be that which was relevant for the purposes of the national insurance modifications of those Schemes or Regulations.

(4) Where any pension which might have become payable under the Teachers Regulations of 1969 to a person to whom this Part applies would have been subject to modification under Part IV of Schedule 5 to those regulations by reference to a table and his age at a given date, the provisions of the Local Government Modification Regulations modifying pensions in similar manner shall apply to that person and for that purpose the relevant date shall be that which was relevant for the purposes of the said Schedule 5.

(5) In this rule “the national insurance modifications” means the reduction in contributions and pensions in consequence of National Insurance prescribed respectively in section 105(3) of the Education (Scotland) Act 1962 and in regulations 22 and 42 of the Teachers Regulations of 1957.

(6) Nothing in this rule shall affect the application of regulation 18 of the National Insurance (Modification of Local Government Superannuation Schemes) Regulations 1963<sup>(16)</sup> (which provides for reduction of local government pensions in respect of certain former employments).

### **Questions and Appeals**

**12.** The provisions of section 35 of the Act of 1937 (which section relates to the decision of questions and appeals) shall have effect in relation to a person (not being a local Act contributor), to whom this Part applies as if the reference therein to regulations made under that Act included a reference to these rules.

### **Application of Section 11(3) of Act of 1953**

**13.**—(1) Section 11(3) of the Act of 1953 (which subsection enables certain persons who would otherwise be debarred on grounds of age from becoming contributory employees or local Act contributors to become such employees or such contributors and to reckon previous pensionable employment) shall apply to a person who before the operative date entered the employment of a local authority after ceasing to be employed in teaching service on or after 4th February 1948.

(2) For the purposes of paragraph (1) of this rule section 11(3) of the Act of 1953 shall have effect as if for the references therein to the passing of that Act there were substituted references to the coming into operation of these rules.

## **PART III**

### **TRANSFER FROM LOCAL GOVERNMENT EMPLOYMENT TO TEACHING SERVICE**

#### **Application**

**14.**—(1) Except as hereinafter provided, this Part shall apply to a person who—

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<sup>(16)</sup> (1963 III, p. 4363).

- (a) becomes, or before the operative date became, employed in teaching service within the prescribed period after ceasing to be employed in local government employment;
  - (b) before or within three months after becoming employed in teaching service or within six months after the operative date, whichever period shall last expire, or within such longer period as the Secretary of State may with the agreement of the fund authority in any particular case allow, notifies the Secretary of State in writing that he desires this Part to apply to him and furnishes the Secretary of State with particulars in writing of any national service in which he has been engaged since ceasing to be employed in local government employment; and
  - (c) within three months after becoming employed in teaching service or within six months after the operative date, whichever period shall last expire, or within such longer period as the Secretary of State may in any particular case allow, pays to the Secretary of State an amount equal to any repaid contributions paid to him after he last ceased to be employed in local government employment, together with any compound interest thereon payable in accordance with paragraph (2) of this rule.
- (2) For the purposes of paragraph (1)(c) of this rule—
- (a) compound interest shall not be payable unless—
    - (i) the period between the person's ceasing to be employed in local government employment and his becoming employed in teaching service exceeds one year; and
    - (ii) the fund authority requires that it be paid;
  - (b) compound interest shall be calculated on the amount of the repaid contributions at three per cent per annum with half-yearly rests from the day one year after that on which the person ceased to be employed in local government employment or from the day on which repaid contributions were paid to him, whichever shall be the later, to the day on which he notified the Secretary of State as required by paragraph (1)(b) of this rule; and
  - (c) if the amount of compound interest calculated as aforesaid exceeds a sum equal to one half of the difference between the amount of the transfer value payable under rule 17 and the amount of the transfer value which would have been so payable if calculated by reference to the person's age on ceasing to be employed in local government employment, it shall be reduced to that sum.

### **Excepted Cases**

- 15.** This Part shall not apply to a person who—
- (a) has received payment of any pension (other than repayment of contributions) under the Acts of 1937 to 1953 or a local Act scheme;
  - (b) is a person in respect of whom a transfer value has been paid otherwise than under these rules, by a fund authority since he last ceased to be employed in local government employment;
  - (c) last ceased to be employed in local government employment before 4th February 1948; or
  - (d) last ceased to be employed in local government employment on or after 4th February 1948 but before the operative date, unless—
    - (i) he is employed in teaching service on the operative date, or, if he is not so employed on that date, the Secretary of State agrees that this Part shall apply to him; and
    - (ii) the fund authority agrees that this Part shall apply to him.

### **Discretionary Increase of Benefits**

16.—(1) The local authority by whom a person to whom this Part applies was last employed may, within six months after the date on which they are notified by the Secretary of State of such application, exercise in relation to that person 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 paragraph (1) of this rule 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 employment, by the person in whose favour the discretion has been exercised shall be deemed to have been correspondingly increased.

(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 the service in respect of which the higher rate of benefit is payable into contributing service or service for the purposes of the relevant local Act scheme in the manner in which non-contributing service is converted into contributing service under section 2(4) of the Act of 1953.

### **Transfer Value**

17.—(1) In respect of a person to whom this Part applies the fund authority shall, out of the superannuation fund maintained by them, pay to the Secretary of State a transfer value of an amount calculated in accordance with the following provisions of this rule.

(2) Subject as hereafter in this rule provided, the transfer value shall be an amount equal to the transfer value which would have been payable under the Transfer Value Regulations if the person, at the date when he ceased to be a contributory employee or local Act contributor, had become such an employee or contributor under another local authority in the circumstances described in section 29 of the Act of 1937.

(3) In calculating the amount of a transfer value—

- (a) there shall be included any increase of service of the person by reason of the exercise under rule 16 of a discretion in his favour;
- (b) there shall be excluded any added years in respect of which the person was immediately before ceasing to be employed in local government employment paying voluntary contributions and in respect of which, at the time the transfer value is paid, he has not elected to continue to pay such contributions; and
- (c) the Transfer Value Regulations shall be deemed to be modified—
  - (i) by the omission from sub-paragraph (a) of the definition of “service” in paragraph 1 of Schedule 1 thereto of the words “not being such service as is mentioned in proviso (a) to that subsection” ; and
  - (ii) by the omission, in respect of a person who was an established officer or servant within the meaning of the Act of 1909, of sub-paragraph (c) of the said definition.

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(4) In respect of a person who ceased to be employed in local government employment more than one year before the operative date the amount of the transfer value shall, except in a case to which paragraph (5) of this rule applies, be—

- (a) calculated by reference to his age on the operative date; and
- (b) where either paragraph (2) or paragraph (3) of rule 3 applies, reduced by the amount of any compound interest payable by him in accordance with rule 14(2).

(5) In respect of a person who became employed in teaching service on or after the operative date and where either paragraph (2) or paragraph (3) of rule 3 applies the amount of the transfer value shall be—

- (a) calculated by reference to his age on the date on which he became employed in teaching service; and
- (b) reduced by the amount of any compound interest payable by him in accordance with rule 14(2).

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

### **Supplementary Provisions as to Transfer Values**

**18.**—(1) Where the amount of a transfer value payable under rule 17 is increased by reason of the exercise under rule 16 of a discretion by a local authority, that authority shall pay the amount of the increase to the superannuation fund out of which the transfer value is payable.

(2) When paying a transfer value under rule 17 a fund authority shall furnish to the Secretary of State and to the person in respect of whom it is paid the like particulars relating to that person's pensionable service as would have been given to him if instead of becoming employed in teaching service he had reentered local government employment.

(3) Where—

- (a) a transfer value is payable under rule 17 by a fund authority in respect of a person who before entering local government employment has been subject to the Act of 1909; and
- (b) the body by whom he was last employed while subject to that Act would, if he had become entitled to a superannuation allowance on leaving local government employment, have been liable to contribute to that allowance.

that body shall pay to the fund authority a sum equal to the transfer value which that body would have been liable to pay to the Secretary of State for Social Services under regulation 56(4) of the National Health Service (Superannuation) Regulations 1950<sup>(17)</sup> if that regulation had become applicable to the person on the date on which he became employed in teaching service; and where that body would have had in respect of any such contribution a right of contribution from any other body, that other body shall pay to the fund authority a sum equal to the transfer value which that other body would have been liable to pay to the Secretary of State for Social Services under paragraph (5) of the said regulation 56 if that regulation had become applicable to the person when he became employed in teaching service.

(4) Where any body referred to in the last preceding paragraph has been dissolved or has ceased to exercise functions as such, references, to that body shall be construed as references to the appropriate authority as defined in paragraph (15) of the regulation mentioned therein.

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(17) 1950 I, p. 1327)

## Reckoning of Service

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

- (a) there shall be reckoned as reckonable service—
  - (i) any period of service which, at the time of his ceasing to be employed in local government employment, is reckonable as contributing service or as service or a period of contribution for the purposes of a local Act scheme;
  - (ii) any period of national service after ceasing to be employed in local government employment which would have been reckonable as aforesaid if he had again become employed in local government employment after the termination thereof; and
  - (iii) one half of any period of service which, at the time of his ceasing to be employed in local government employment, is reckonable as non-contributing service; and
- (b) there shall be reckoned as class C external service for the purposes of the Teachers Regulations of 1969 any period of service which, at the time of his ceasing to be employed in local government employment, is reckonable as non-contributing service, except in so far as that service is reckoned under this rule or those regulations as reckonable service or as class A or class B external service for the purposes of those regulations.

(2) Where a person to whom this Part applies has, during his local government employment, been employed as a part-time employee, the period of his part-time service shall be treated—

- (a) for the purpose of determining whether he has served for any minimum period prescribed by the Teachers Regulations of 1969 as necessary for any pension to be paid to or in respect of him as if it were whole-time service; and
- (b) for the purpose of calculating the amount of any pension payable under the Teachers Regulations of 1969, as if it were whole-time service for a proportionately reduced period.

(3) Where by virtue of a scheme modifying the Act of 1937 any period of service of a person to whom this Part applies is reckoned at a fraction of its actual length for the purpose of calculating the amount of the transfer value payable under rule 17, then, for the purpose of calculating the amount of any pension payable to or in respect of him under the Teachers Regulations, only that fraction of that period of service shall be reckoned as reckonable service.

(4) In respect of a person to whom this Part applies there shall not by virtue of this Part be reckoned as reckonable service—

- (a) any service which he is or was entitled to reckon as contributing or non-contributing service by virtue of section 17 of the Act of 1937 or the corresponding provisions of a local Act scheme if that service is reckonable service under the Teachers' Superannuation Regulations 1967<sup>(18)</sup>; or
- (b) any service which in his case is deemed to be service to which the said section 17 applies by virtue of the Local Government Superannuation (England and Scotland) Regulations 1948<sup>(19)</sup>, if that service is reckonable as reckonable service otherwise than by virtue of these rules; or
- (c) any service which is the subject of a direction under section 17(3) of the Act of 1953 that all rights enjoyed by or in respect of the person with respect to that service shall be forfeited.

(5) The whole of any period of service to which paragraph (1) of this rule applies shall, for the purpose of calculating under section 4(3) of the Teachers Superannuation (Scotland) Act 1968 the average salary of a person to whom this Part applies, be reckoned as a period of employment in reckonable service and his salary during any period so reckoned shall be such amount as would under

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<sup>(18)</sup> (1967 I, p. 1562)

<sup>(19)</sup> (Rev. XVII, p. 813: 1948 I, p. 3304).

the Benefits Regulations be taken into account for the purpose of determining the annual average of his remuneration during that period.

(6) Notwithstanding anything in this rule before contained, any service of a person to whom this Part applies which under the Acts of 1937 to 1953 or a local Act scheme was at the time he ceased to be employed in local government employment reckonable only for the purpose of calculating the amount of any pension payable to or in respect of him or only for the purpose of determining whether he was entitled to any pension shall be reckoned only for the corresponding like purpose under the Teachers Regulations of 1969.

### **Voluntary Contributions**

**20.**—(1) A person to whom this Part applies may elect to continue to pay voluntary contributions of any category being paid by him immediately before ceasing to be employed in local government employment.

(2) If a person elects as aforesaid and—

- (a) within three months of becoming employed in teaching service, or within such longer period as the Secretary of State may in any particular case allow, pays to the Secretary of State a sum equal to the aggregate of any sum paid to him on or after ceasing to be employed in local government employment by way of return of voluntary contributions of any category he has elected to continue to pay, any interest added thereto and any amount deducted therefrom in respect of liability to income tax arising by reason of the payment, and
- (b) thereafter pays to the Secretary of State any amounts outstanding in respect of voluntary contributions of any category he has elected to continue to pay at the times at which they would have been payable if he remained in local government employment,

his teaching service shall be affected in the manner prescribed by the following provisions of this rule.

(3) In respect of voluntary contributions paid in respect of added years, those years shall be reckoned as reckonable service.

(4) In respect of voluntary contributions paid otherwise than in respect of added years, the service in respect of which they are paid shall be reckoned for the purposes of the Teachers Regulations of 1969 in the manner in which it would under rule 19 have been so reckoned if the payment of the contributions had been completed immediately before the person ceased to be employed in local government employment.

(5) The provisions of paragraphs (5)(b), (6), (7) and (10) of regulation 31 and of regulation 37 of the Teachers Regulations of 1969 shall apply to voluntary contributions payable under this rule as if they were additional contributions payable in respect of previous employment within the meaning of those regulations.

(6) If a person does not elect as aforesaid or if voluntary contributions are repaid to him under regulation 37 of the Teachers Regulations of 1969, as applied by this rule, the period in respect of which such contributions were paid shall be reckoned for the purposes of the Teachers Regulations of 1969 only to the extent, if any, to which it would have been so reckoned if no such payments or contributions had been made in respect thereof.

### **Commencement of Employment**

**21.** For the purposes of regulation 40(1)(a)(ii) of the Teachers Regulations of 1969 the date on which a person to whom this Part applies entered local government employment shall be deemed to be a date on which he became employed in teaching service.

### **Computation of Contributions**

**22.**—(1) Where a person to whom this Part applies ceases to be employed in teaching service or dies, then, in computing the sum to which he or his personal representatives shall be entitled under the Teachers Regulations of 1969, there shall be included a sum in respect of contributions paid by him in respect of service which by virtue of these rules is reckoned as reckonable service and, in the case of a person who has elected in pursuance of rule 20 to continue paying voluntary contributions, in respect also of voluntary contributions paid by him before becoming employed in teaching service which have either not been returned to him or, if returned, have been paid to the Secretary of State under rule 20 and have not subsequently been again returned.

(2) In computing the amount of the sum so included for the purposes of this rule compound interest shall be calculated—

- (a) as respects the period ending immediately before the date on which the person became employed in teaching service, in the manner in which such interest, if any, would have been calculated if the occasion for making the calculation had occurred immediately before that date; and
- (b) as respects the period beginning with that date, in accordance with the provisions of Part IV of the Teachers Regulations of 1969.

### **Benefits under Acts or Scheme**

**23.** Subject as in Part II provided, no payment of any pension shall be made under the Acts of 1937 to 1953, the Benefits Regulations or a local Act scheme to or in respect of any person in respect of any local government employment which is reckoned as reckonable service under this Part.

### **Modification of Contributions and Benefits by reason of National Insurance**

**24.**—(1) In relation to a person to whom this Part applies—

- (a) the following paragraphs of Schedule 5 to the Teachers Regulations of 1969, that is to say—
  - paragraph 3 (which provides for the reduction of contributions).
  - paragraph 5 (which provides for the reduction of pensions by fixed annual amounts specified therein), and
  - paragraph 6 (which provides for the reduction of pensions by annual amounts ascertained by reference to a table and age at a given date)shall not apply if, on the date on which he ceased to be employed in local government employment, the contributions payable by him as a contributory employee or local Act contributor were not subject to reduction by virtue of the Local Government Modification Regulations;
- (b) paragraphs 3 and 5 of the said Schedule 5 shall apply if any pension payable to him under the Acts of 1937 to 1953 or a local Act scheme would, apart from the National Insurance (Modification of Local Government Superannuation Schemes) No. 2 Regulations 1961, have been subject to reduction by virtue of paragraph 3(3) of Schedule 3 to the Benefits Regulations; and
- (c) paragraphs 3 and 6 of the said Schedule 5 shall apply if any pension payable to him under the Acts of 1937 to 1953 or a local Act scheme would, apart from the National Insurance (Modification of Local Government Superannuation Schemes) No. 2 Regulations 1961, have been subject to reduction by virtue of paragraph 2(2) of Schedule 3 to the Benefits Regulations.

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(2) Where, by virtue of paragraph (1)(c) of this rule, paragraph 6 of Schedule 5 to the Teachers Regulations of 1969 applies to a person the date of modification for the purposes of the latter paragraph shall be the date which was in relation to him the material date for the purposes of Schedule 3 to the Benefits Regulations.

Given under the seal of the Secretary of State for Scotland on 30th May 1969.

L.S.

*William Ross*  
Secretary of State for Scotland

Given under the Official Seal of the Minister of Housing and Local Government on 3rd June 1969.

L.S.

*Anthony Greenwood*  
Minister of Housing and Local Government

Consent of the Minister for the Civil Service given under his Official Seal on 4th June 1969.

L.S.

*J. E. Herbecq*  
Authorised by the Minister for the Civil Service



## EXPLANATORY NOTE

These Rules provide for preservation of the superannuation rights of persons who change their employment in either direction between pensionable teaching service in Scotland and pensionable local government employment in England and Wales.

Since provision for this purpose has not previously existed, the Rules apply subject to certain conditions, under powers conferred by section 2(5) of the Superannuation (Miscellaneous Provisions) Act 1948, to changes of employment before the date of their coming into operation but not earlier than 4th February 1948. The effect is thus that the Rules can be applied to changes of employment at any time during the period already covered by similar Rules now in force both in Scotland and in England and Wales.