

1972 No. 532 (S.37)

PENSIONS**The Superannuation (Teaching and Northern Ireland Civil Service) Interchange (Scotland) Rules 1972**

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| <i>Made</i> | - - - | 23rd March 1972 |
| <i>Laid before Parliament</i> | | 10th April 1972 |
| <i>Coming into Operation</i> | | 1st May 1972 |

In exercise of the powers conferred upon me by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act 1948(a), as amended by section 11 of the Superannuation (Miscellaneous Provisions) Act 1967(b) and of all other powers enabling me in that behalf, and with the consent of the Minister for the Civil Service, I hereby make the following rules:—

PART I**GENERAL***Citation and Commencement*

1. These rules may be cited as the Superannuation (Teaching and Northern Ireland Civil Service) Interchange (Scotland) Rules 1972 and shall come into operation on 1st May 1972.

Revocation

2.—(1) The Superannuation (Teaching and Northern Ireland Civil Service) Interchange (Scotland) Rules 1962(c) are hereby revoked:

Provided that the rules hereby revoked shall continue to apply in relation to any person who, before 1st February 1969, became employed in contributory service or as a civil servant within the meaning of those rules in like manner as they would have applied if these rules had not been made.

(2) Section 38(2) of the Interpretation Act 1889(d) (which relates to the effect of repeals) shall have effect in relation to the rules revoked by this rule as if they were an enactment repealed by an Act.

Interpretation

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

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

“the Superannuation Acts” means the Superannuation Acts (Northern Ireland) 1967 and 1969(e);

(a) 1948 c. 33.

(c) S.I. 1962/864 (1962 I, p. 980).

(e) 1967 c. 24 (N.I.); 1969 c. 7 (N.I.).

(b) 1967 c. 28.

(d) 1889 c. 63.

“benefit” means any superannuation benefit payable to or in respect of any person;

“civil servant” means a person serving in an established capacity in the permanent civil service of Northern Ireland;

“contributing service” and “contributory employee” have the same respective meanings as in the Local Government Superannuation (Scotland) Acts 1937 to 1953(a);

“the Ministry” means the Ministry of Finance for Northern Ireland;

“national service” means, in relation to any person, service which is relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(b); and any similar service immediately following relevant service entered into with the consent of the Department in which he last served or of the body or person by whom he was last employed before undertaking the service;

“prescribed period” has the meaning assigned to it by rule 4;

“reckonable service” means reckonable service within the meaning of the Teachers Superannuation (Scotland) Act 1968(c);

“the Teachers Regulations of 1957” means the Teachers (Superannuation) (Scotland) Regulations 1957(d) as amended (e);

“the Teachers Regulations of 1969” means the Teachers Superannuation (Scotland) Regulations 1969(f) as amended (g);

“the Teachers Schemes” means the Superannuation Scheme for Teachers in Scotland dated 5th June 1919(h), the Superannuation Scheme for Teachers (Scotland) 1926(i) and the Superannuation Scheme for Teachers (Scotland) 1952(j);

“teaching service” means—

(a) reckonable service; and

(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) (Scotland) Regulations 1954(k);

“voluntary contributions” means—

(a) in relation to employment in teaching service, additional contributions paid or being paid under regulation 31 of the Teachers Regulations of 1969 in respect of a period of previous employment and any other contributions being paid by virtue of other rules made under section 2 of the Act of 1948 as a condition of—

(i) making reckonable a period of service not otherwise reckonable;

(ii) increasing the length at which a period of service would be reckonable; or

(iii) service being increased by the addition thereto of a period; and

(a) 1937 c. 69; 1939 c. 18; 1953 c. 25. (b) 1951 c. 65.

(c) 1968 c. 12.

(d) S.I. 1957/356 (1957 I, p. 733).

(e) 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).

(f) S.I. 1969/77 (1969 I, p. 133).

(g) S.I. 1969/659, 1971/1995 (1969 II, p. 1820; 1971 III, p. 5683).

(h) S.R. & O. 1919/1105 (1919 I, p. 688).

(i) S.R. & O. 1926/363 (1926, p. 449).

(j) S.I. 1952/464 (1952 I, p. 873).

(k) S.I. 1954/1256 (1954 II, p. 1736).

(b) in relation to service as a civil servant, payments being made to the Ministry in respect of any provision contained in rules made under section 33 of the Superannuation Act (Northern Ireland) 1967.

(2) 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.

(3) References in these rules to a rule, Part or paragraph shall, unless the context otherwise requires, be construed as references to that rule or Part of these rules, or to that paragraph of the rule in which the reference occurs, as the case may be.

(4) 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

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

(a) in the case of a person who, immediately after ceasing to be employed in teaching service or to be a civil servant became engaged in national service, a period of six months after the date of termination of the national service; and

(b) 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 to be a civil servant.

(2) The Secretary of State in the case of a person entering teaching service and the Ministry in the case of a person becoming a civil servant may, with the agreement of the other, in any particular case extend any period specified in paragraph (1).

(3) In reckoning the periods of six months and twelve months specified in paragraph (1) in the case of a person who in his new employment is in teaching service no account shall be taken of any period spent by him on a course of study or training after ceasing to be a civil servant if—

(a) his undertaking the said course was approved by the Ministry; and

(b) the Secretary of State is satisfied that by reason of his having undertaken the said course he is better fitted for the duties of his new employment.

PART II

TRANSFER FROM TEACHING SERVICE TO CIVIL SERVICE

Application

5.—(1) Except as provided in paragraph (3), this Part shall apply to a person who—

(a) on or after 1st February 1969 and within the prescribed period after ceasing to be employed in teaching service becomes or has become a civil servant; and

(b) within three months after becoming a civil servant or within such longer period as the Ministry with the agreement of the Secretary of State may in any particular case allow—

- (i) notifies the Ministry in writing that he desires this Part to apply to him and furnishes the Ministry with particulars in writing of his teaching service; and
 - (ii) pays to the Secretary of State an amount determined in accordance with paragraph (2).
- (2) The amount to be paid by a person to the Secretary of State under paragraph (1)(b)(ii) shall be the aggregate of—
- (a) any sum paid to him after he last ceased to be employed in teaching service by way of return 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), together with any interest included therein;
 - (b) any sum deducted from such payment as aforesaid in respect of liability to income tax arising by reason of its payment; and
 - (c) compound interest on the sums specified in sub-paragraphs (a) and (b) of this rule calculated at the rate of $3\frac{1}{2}$ per cent per annum with yearly rests from the date of the payment to him to the date of the payment by him to the Secretary of State.
- (3) This Part shall not apply to a person who has received payment of any benefit (other than repayment of contributions) under the Teachers Schemes, the Teachers Regulations of 1957 or the Teachers Regulations of 1969.

Transfer Value

6.—(1) In respect of a person to whom this Part applies the Secretary of State shall pay to the Ministry a transfer value of an amount calculated in accordance with the following provisions of this rule.

(2) Subject as provided hereafter in this rule 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 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 at the length at which it is so reckonable.

(3) 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(a), 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.

(4) 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(b) and of national service within the meaning of the Teachers Pensions (National Service) (Scotland) Rules 1952(c) in respect of which, at the time the transfer value is paid, the contributions remain unpaid; and

(a) 1965 c. 51.

(c) S.I. 1952/518 (1952 I, p. 928).

(b) 1939 c. 96.

- (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, contributions are not payable to the Ministry under rules made by the Ministry;
- (5) The amount of the transfer value shall, in lieu of being reduced in accordance with the proviso to paragraph 2 of the First Schedule to the Transfer Value Regulations, be reduced by—
- (a) an amount equal to any sum which remained to be paid by him on his ceasing to be employed in teaching service towards the discharge of a fixed sum as a condition of any period of service being reckoned for the purposes of the Teachers Regulations of 1969; and
 - (b) an amount equal to the capital value of any voluntary contributions which on his ceasing to be employed in teaching service remained to be paid by him in respect of any period not excluded from the calculation of the amount of the transfer value by paragraph (4)(b).
- (6) In respect of a person who became a civil servant more than twelve months after ceasing to be employed in teaching service or more than six months after ceasing to be engaged in national service, the transfer value shall be calculated by reference to his age on the date on which he became a civil servant.

Benefits under Teachers Regulations

7. Subject to the provisions of Part III and any provisions similar thereto contained in other rules made under the Act of 1948, no payment of any benefit shall be made under the Teachers Regulations of 1969 to or in respect of any person in respect of any service which is taken into account in calculating the amount of a transfer value under rule 6.

PART III

TRANSFER FROM CIVIL SERVICE TO TEACHING SERVICE

Application

8.—(1) Except as provided in paragraph (2) of this rule, this Part shall apply to a person who—

- (a) on or after 1st February 1969 and within the prescribed period after ceasing to be a civil servant becomes, or has become, employed in teaching service with the consent of the Department in which he was last employed as a civil servant;
- (b) within three months after becoming employed in teaching service or within such longer period as the Secretary of State with the agreement of the Ministry may 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 his service as a civil servant; and
- (c) is a person in respect of whom the Secretary of State receives from the Ministry a transfer value of an amount calculated in accordance with the provisions of rule 9.

(2) This Part shall not apply to a person who has received payment of any benefit under the Superannuation Acts.

Transfer Value

9.—(1) Subject as provided hereafter in this rule, the transfer value receivable by the Secretary of State from the Ministry in respect of a person to whom this Part applies 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 civil servant or ceased to be engaged in national service, as the case may be, had ceased to be a contributory employee under one local authority and had become such an employee under another local authority and had been entitled to reckon his service reckonable for the purposes of the Superannuation Acts as contributing service.

(2) For the purposes of paragraph (1), service reckonable for the purposes of the Superannuation Acts which is to be 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 in accordance with regulations made under section 103 of the National Insurance Act (Northern Ireland) 1966(a), or under any provision corresponding thereto contained in an enactment repealed by that Act.

(3) In respect of a person who became employed in teaching service more than twelve months after ceasing to be a civil servant or more than six months after ceasing to be engaged in national service, the transfer value shall be calculated by reference to his age on the date on which he became employed in teaching service.

Reckoning of Service

10.—(1) In respect of a person to whom this Part applies there shall be reckoned as reckonable service—

- (a) the period of service which under rule 9 is reckoned as contributing service for the purpose of calculating the amount of the transfer value payable in respect of him; and
- (b) any period in respect of which he was, at the time he ceased to be a civil servant, in course of making payments as a condition of his service reckonable for the purposes of the Superannuation Acts being increased by its addition thereto if—
 - (i) 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 he elects to pay to the Secretary of State sums equal to the aforesaid payments and thereafter pays such sums at the times at which they would have been payable if he had continued to be a civil servant; and
 - (ii) the transfer value paid in respect of him is calculated so as to include the liability of which the Ministry is relieved in respect of that period, reduced by the value of the payments he would have been liable to make if he had continued to be a civil servant.

(2) In relation to any period to which paragraph (1)(b) applies—

- (a) the provisions of regulations 31(5)(b), (6), (7) and (10) and 37 of the Teachers Regulations of 1969 shall apply to the sums payable to the

(a) 1966 c. 6 (N.I.).

Secretary of State under the said paragraph (1)(b) as if those sums were additional contributions payable in respect of previous employment within the meaning of those regulations; and

- (b) if no election to pay those sums is made or if they are repaid under regulation 37 of the Teachers Regulations of 1969, the period shall be reckoned for the purposes of those regulations only to the extent, if any, to which it would have been so reckoned if no payments had been made in respect thereof.

(3) Any period of service of a person to whom this Part applies which under the Superannuation Acts was at the time he ceased to be a civil servant reckonable only for the purpose of calculating the amount of any benefit 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.

Return of Contributions

11.—(1) Where a person to whom this Part applies ceases to be employed in teaching service or dies, then, to any sum to which he or his personal representatives shall be entitled under the Teachers Regulations of 1969 by way of repayment of contributions there shall be added the following sums—

- (a) a sum equal to the amount of any contributions paid by him in respect of service which by virtue of this Part is reckoned as reckonable service;
- (b) a sum equal to the amount of any 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 and have not subsequently been again returned; and
- (c) compound interest on the foregoing sums calculated in accordance with paragraph (2).

(2) For the purposes of paragraph (1) 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.

Commencement of Employment

12. 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 became a civil servant shall be deemed to be a date on which he became employed in teaching service.

Modification of Contributions and Benefits by reason of National Insurance

13. 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 a civil servant, the National Insurance (Modification of the Superannuation Acts) Regulations (Northern Ireland) 1948(a) did not apply to him; and

(b) paragraphs 3 and 5 of the said Schedule 5 shall apply if, on the date on which he ceased to be a civil servant, the last mentioned Regulations applied to him.

Gordon Campbell,

One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh.
22nd March 1972.

Consent of the Minister for the Civil Service given under his Official Seal
on 23rd March 1972.

(L.S.)

K. H. McNeill,

Authorised by the Minister for
the Civil Service.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules continue with minor alterations the arrangements made by earlier Rules for the preservation of superannuation rights upon changes of employment between teaching in Scotland and the Civil Service of Northern Ireland under the provisions of the Superannuation (Teaching and Northern Ireland Civil Service) Interchange (Scotland) Rules 1962 which are revoked.

The Rules may have retrospective effect in certain cases under the express power of, and subject to the safeguards required by, section 2(5) of the Superannuation (Miscellaneous Provisions) Act 1948.

(a) S.R. & O. (N.I.) 1948 No. 91.

SI 1972/532
ISBN 0-11-020532-4

