

## 1971 No. 1430 (S.172)

## PENSIONS

**The Superannuation (Teaching and National Health Service)  
Interchange (Scotland) Rules 1971**

*Made* - - - - - 26th August 1971  
*Laid before Parliament* 7th September 1971  
*Coming into Operation* 10th September 1971

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## PART I

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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 as read with the Minister for the Civil Service Order 1968(c), 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 National Health Service) Interchange (Scotland) Rules 1971 and shall come into operation on 10th September 1971.

#### *Interpretation*

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

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

“the Act of 1968” means the Teachers Superannuation (Scotland) Act 1968(d) ;

“employing authority” has the same meaning as in the Health Service Regulations ;

“employment as an officer” means employment which is or is treated as employment by an employing authority as an officer entitled to participate in superannuation benefits under the Health Service Regulations ;

“Health Service Regulations” means the National Health Service (Superannuation) (Scotland) Regulations 1961 and 1966(e) ; and the “principal Health Service Regulations” means the former regulations ;

“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(f) and any similar service immediately following relevant service entered into with the consent of the body or person by whom he was last employed before undertaking the service ;

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

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

“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 Act of 1968 ;

(a) 1948 c. 33.

(b) 1967 c. 28.

(c) S.I. 1968/1656 (1968 III, p. 4485).

(d) 1968 c. 12.

(e) S.I. 1961/1398, 1966/1522 (1961 II, p. 2697; 1966 III, p. 4268).

(f) 1951 c. 65.

“the Teachers Regulations of 1957” means the Teachers (Superannuation) (Scotland) Regulations 1957(a) as amended (b) ;

“the Teachers Regulations of 1969” means the Teachers Superannuation (Scotland) Regulations 1969(c) as amended (d) ;

“the Teachers Schemes” means the Superannuation Scheme for Teachers in Scotland dated 5th June 1919(e), the Superannuation Scheme for Teachers (Scotland) 1926(f) and the Superannuation Scheme for Teachers (Scotland) 1952(g) ;

“teaching service” means—

(a) reckonable service ; and

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

“teachers superannuation account” means the account kept under section 5 of the Act of 1968 ;

“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 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(h) or of national service) being reckoned as reckonable service ; and

(b) in relation to employment as an officer, additional contributory payments within the meaning of the Health Service Regulations and payments in respect of added years within the meaning of those regulations.

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

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

#### *Amendment of Health Service Regulations*

3.—(1) The provisions of the principal Health Service Regulations specified in Part I of the Schedule to these rules shall have effect subject to the amendments set out in that Part.

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

(b) 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).

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

(d) S.I. 1969/659 (1969 II, p. 1820).

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

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

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

(h) 1939 c. 96.

(i) 1889 c. 63.

(2) The provisions of the regulations specified in Part II of the said Schedule, being regulations relating to National Health Service superannuation, are hereby revoked.

*Prescribed Period*

4.—(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 leaving his employment in teaching service or as an officer 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 who within twelve months of leaving his employment in teaching service—
  - (i) did not enter employment as an officer ; and
  - (ii) became employed in external service within the meaning of the Teachers Regulations of 1969, a period of twelve months after the date of the termination of such external service, if the Secretary of State agrees ;
- (c) in the case of a person who after leaving his employment as an officer—
  - (i) entered employment approved by the Secretary of State for the purposes of regulation 77 of the principal Health Service Regulations ; and
  - (ii) within twelve months of leaving his employment as an officer did not become employed in teaching service, a period of twelve months after the date of the termination of the employment approved as aforesaid, if the Secretary of State agrees ; and
- (d) in the case of any other person, a period of twelve months after the date of the termination of his employment in teaching service or as an officer.

(2) In reckoning the periods of six months and twelve months mentioned 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—

- (a) in the case of a person whose new employment is as an officer, if the Secretary of State agrees ; or
- (b) in the case of a person whose new employment is teaching service, if the said course was approved by the Secretary of State and if the Secretary of State is satisfied that by reason of his having undertaken it he is better fitted for the duties of his new employment.

**PART II**

**TRANSFER FROM TEACHING SERVICE TO NATIONAL HEALTH SERVICE**

*Application*

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

- (a) on or after the operative date enters employment as an officer within the prescribed period after ceasing to be employed in teaching service ; and

(b) within three months after entering employment as an officer, or within such longer period as the Secretary of State may in any particular case allow--

- (i) gives notice in writing to his employing authority that he desires this Part to apply to him and furnishes that authority with particulars of his teaching service ; and
- (ii) pays to his employing authority an amount determined in accordance with paragraph (2) of this rule.

(2) The amount to be paid by an officer to his employing authority under paragraph (1)(b)(ii) of this rule shall be the aggregate of—

(a) any sum paid to him after he last ceased to be employed in teaching service 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 his widow, children or other dependants), together with any interest included therein, and not since repaid by him to the Secretary of State ; and

(b) any sum deducted from such payment as aforesaid in respect of liability to income tax arising by reason of its payment.

(3) This Part shall not apply to a person who has become entitled to any benefit (other than repayment of contributions) under any of the Teachers Schemes, or under the Teachers Regulations of 1957, or under the Teachers Regulations of 1969, unless the Secretary of State consents.

### *Transfer Value*

6.—(1) In respect of a person to whom this Part applies there shall be included as expenditure in the teachers superannuation account such a sum by way of transfer value as shall be 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 Local Government Superannuation (Transfer Value) (Scotland) Regulations 1954(a) 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.

(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(b), 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.

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

(b) 1965 c. 51.

(4) In calculating the amount of the 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(a) in respect of which, at the time the transfer value is paid, the contributions remain unpaid; and
- (b) any period 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.

(5) In respect of a person who—

- (a) after ceasing to be employed in teaching service and before entering employment as an officer, has undergone a course of study or training and to whom rule 4(2) applies; or
- (b) has entered employment as an officer more than twelve months after ceasing to be employed in teaching service and to whom rule 4(1)(b) applies,

the amount of the transfer value shall be calculated by reference to the person's age at the date on which he entered employment as an officer.

(6) In this rule "contributory employee" and "contributing service" have the same respective meanings as in the Local Government Superannuation (Scotland) Act 1937(b).

#### *Benefits under Teachers Regulations of 1969*

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 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.

### PART III

#### TRANSFER FROM NATIONAL HEALTH SERVICE TO TEACHING SERVICE

##### *Application*

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

- (a) on or after the operative date becomes employed in teaching service within the prescribed period after leaving employment as an officer; and
- (b) 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—
  - (i) gives notice in writing to the Secretary of State that he desires this Part to apply to him and furnishes the Secretary of State with particulars of his employment reckonable as service for the purposes of the Health Service Regulations; and

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

(b) 1937 c. 69.

- (ii) pays to the Secretary of State an amount equal to any sum paid to him by way of return of contributions (other than voluntary contributions) and not already repaid by him to the Secretary of State on or after he last left employment as an officer, together with an amount equal to any sum deducted therefrom in respect of income tax.

(2) This Part shall not apply to a person who—

- (a) has become entitled to any benefit (other than repayment of contributions) under the Health Service Regulations, unless the Secretary of State consents ; or
- (b) in consequence of an offence of a fraudulent character or of grave misconduct, has forfeited under regulation 54 of the principal Health Service Regulations all claim to superannuation benefits.

### *Transfer Value*

9.—(1) In respect of a person to whom this Part applies there shall be included as revenue in the teachers superannuation account such a sum by way of transfer value as is equal to the transfer value which would, subject as in paragraph (2) of this rule provided, have been payable under regulation 80 of the principal Health Service Regulations if the person, at the date when he left employment as an officer, had become a contributory employee within the meaning of the Local Government Superannuation (Scotland) Act 1937.

(2) In respect of a person who, after leaving employment as an officer and before becoming employed in teaching service—

- (a) entered employment approved by the Secretary of State for the purposes of regulation 77 of the principal Health Service Regulations and to whom rule 4(1)(c) applies ; or
- (b) underwent a course of study or training and to whom rule 4(2) applies,

the amount of the transfer value shall be calculated by reference to the person's age at the date on which he became employed in teaching service.

### *Reckoning of Service*

10.—(1) Any period of service of a person to whom this Part applies shall—

- (a) if treated as contributing service within the meaning of the Health Service Regulations for the purpose of calculating under rule 9 the amount of the transfer value, be reckoned as reckonable service ; and
- (b) if treated as non-contributing service within the meaning of the Health Service Regulations for the said purpose, be reckoned as to one-half thereof as reckonable service.

(2) Any period of service of a person to whom this Part applies which was non-contributing service for the purposes of the Health Service Regulations shall, to such extent as it is not reckoned under paragraph (1) of this rule as reckonable service, be class C external service for the purposes of the Teachers Regulations of 1969.

(3) Any other period of service which a person to whom this Part applies was entitled to reckon under the Health Service Regulations solely for the purpose of determining whether he was entitled to any benefit under those regulations shall be similarly reckoned for the purposes of the Teachers Regulations of 1969.

(4) The salary of a person to whom this Part applies during any period reckoned as reckonable service under paragraph (1) of this rule shall, for the purpose of determining his average salary under section 4(3) of the Act of 1968, be such remuneration as would be taken under regulation 35 of the principal Health Service Regulations into account for the purpose of calculating the annual average of his remuneration during that period.

### *Voluntary Contributions*

11.—(1) A person to whom this Part applies may, 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, elect to continue to pay voluntary contributions being paid by him immediately before leaving employment as an officer.

(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 by way of return of voluntary contributions on or after his leaving his employment as an officer, 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 the Secretary of State any amounts outstanding in respect of such voluntary contributions at the times at which they would have been payable if he had remained in employment as an officer,

his teaching service shall be affected in the same manner, as nearly as may be, as his service reckonable for the purposes of the Health Service Regulations would have been affected if he had completed the payment thereof before leaving employment as an officer.

(3) The provisions of regulation 31(5)(b), (6), (7) and (10) 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.

(4) If a person does not elect as aforesaid or if his voluntary contributions are repaid 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 as an Officer*

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 employed in service taken into account for the purpose of calculating under rule 9 of these rules the amount of a transfer value shall be deemed to be a date on which he became employed in teaching service.

*Return of Contributions*

13.—(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 11 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 11(1) 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.

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

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

- (a) paragraph 3 of Schedule 5 of the Teachers Regulations of 1969 (which paragraph provides for the reduction of contributions payable under sub-sections (3) and (4) of section 3 of the Act of 1968) shall apply if paragraph (2) of regulation 51 of the principal Health Service Regulations applied to him immediately before he left employment as an officer ;
- (b) paragraph 6 of Schedule 5 to the Teachers Regulations of 1969 (which paragraph provides for the reduction of annual superannuation allowances in the case of certain persons in employment before the beginning of July 1948) shall apply if either paragraph (3)(a) or (3)(b) of regulation 51 of the principal Health Service Regulations would have applied to him if he had become entitled to a pension under those regulations ; and
- (c) paragraph 5 of Schedule 5 to the Teachers Regulations of 1969 (which paragraph provides for the reduction of annual superannuation allowances in the case of other persons) shall apply if paragraph (3)(c) of regulation 51 of the principal Health Service Regulations would have applied to him if he had become entitled to any benefit under those regulations.

(2) Where, by virtue of paragraph (1)(b) 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—

(a) in a case to which paragraph (3)(a) of regulation 51 of the principal Health Service Regulations would have applied, the date which was in relation to him the material date for the purposes of that paragraph ; and

(b) in a case to which paragraph (3)(b) of the said regulation would have applied, 5th July 1948 or the date on which he entered employment as an officer, whichever was the later.

*Gordon Campbell,*  
One of Her Majesty's  
Principal Secretaries of State.

St. Andrew's House,  
Edinburgh.  
17th August 1971.

Consent of the Minister for the Civil Service given under his Official Seal  
on 26th August 1971.

(L.S.)

*A. W. Wyatt,*  
Authorised by the Minister for  
the Civil Service.

Rule 3

## SCHEDULE

### PART I

#### *Amendments to the Principal Health Service Regulations*

1. In regulation 2(2) (which contains definitions)—

(a) after the definition "the Teachers Superannuation Regulations" there shall be inserted the following definition—

"the Teachers Regulations of 1969" means the Teachers Superannuation (Scotland) Regulations 1969(a) as amended (b) ;

(b) in the definition of "added years"(\*) for item (d) there shall be substituted the following words—

"or (d) regulation 15 of the Teachers Regulations of 1969" ;

(c) after the definition of "short service gratuity" there shall be inserted the following definition—

"teaching service" has the same meaning as in the Superannuation (Teaching and National Health Service) Interchange (Scotland) Rules 1971".

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

(b) S.I. 1969/659 (1969 II, p. 1820).

(\*) as amended by regulation 26 of S.I. 1966/1522 (1966 III, p. 4268).

2. In regulation 19(1) (which relates to the reckoning as service of previous periods of employment) for proviso (b) there shall be substituted the following proviso—

“(b) in the case of a person who, before entering the employment in which he is an officer, was employed in teaching service—

- (i) there shall not be reckonable as service under these regulations, except for the sole purpose of determining whether he is entitled to any benefit hereunder, any period of external service within the meaning of the Teachers Regulations of 1969 ; and
- (ii) any period of employment which was qualifying service within the meaning of the Teachers Regulations of 1969 shall be disregarded;”.

3. In regulation 19(3) for paragraph (c) there shall be substituted the following paragraph—

“(c) employment in teaching service ;”.

4. In regulation 30(1) (which relates to the reckoning of contributing service) for sub-paragraph (b)(ii) there shall be substituted the following sub-paragraph—

“(ii) teaching service ; or”.

5. In regulation 51 (which effects modifications in connection with National Insurance)—

(a) in paragraph (3)(a), for the words “subject to the Teachers Superannuation Regulations as a person in first class service,” there shall be substituted the words “in teaching service or subject to” ;

(b) in paragraphs (3)(a) and (b), (8), (9) and (12)(a), for the words “in first class service under the Teachers Superannuation Regulations” wherever these words occur there shall be substituted the words “in teaching service” ;

(c) in paragraph (12)(b), for the words “such a person in first class service under the Teachers Superannuation Regulations as aforesaid” there shall be substituted the words “in teaching service”.

6. In regulation 58(2) (which relates to accounts) for the words “as a person in first class service under the Teachers Superannuation Regulations” there shall be substituted the words “in teaching service”.

## PART II

### *Revocations*

In the principal Health Service Regulations—

1. In regulation 75, in the heading the words “or teaching service”, in paragraph (1), the words “or a person in first class service under the Teachers Superannuation Regulations”, in paragraph (1)(a) the words “or first class service, as the case may be”, in paragraph (1)(b) the words “or as third class service for the purposes of the Teachers Superannuation Regulations”, in proviso (i) the words “or a person in first class service under the Teachers Superannuation Regulations”, the words “or if he is a person in first class service under the Teachers Superannuation Regulations” ; and paragraph (3) ; and
2. In Schedule 2, in paragraph 3(d)(ii) the words “enters employment in first class service under the Teachers Superannuation Regulations, as is mentioned in sub-paragraph (c) of paragraph (3) of regulation 19, or”, the words “the Secretary of State or”, the words “as the case may be,” and the words “Secretary of State or”.

## EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

These Rules maintain existing arrangements for preservation of teachers superannuation rights on transfer of employment to or from the National Health Service in Scotland.

Provision for this purpose has, since 1948, been included in National Health Service (Superannuation) (Scotland) Regulations made under section 66 of the National Health Service (Scotland) Act 1947. The present Rules, like other similar Rules affecting teachers, are made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 and follow from the revision of the law relating to teachers superannuation by the Teachers Superannuation (Scotland) Act 1968 and the Teachers Superannuation (Scotland) Regulations 1969. Consequential amendments are made to the Regulations relating to National Health Service superannuation.

A minor change in the previous arrangements enables superannuation rights to be transferred where the interval between leaving teaching and entering National Health Service has been spent in certain kinds of "approved" service; also the time within which application for transfer of rights must be made is extended.