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STATUTORY INSTRUMENTS

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**1969 No. 790**

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

**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—
- (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.
- (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(1) 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.

### **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

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(1) 1950 I, p. 1327)

local Act scheme if that service is reckonable service under the Teachers' Superannuation Regulations 1967<sup>(2)</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>(3)</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 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.

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(2) (1967 I, p. 1562)

(3) (Rev.XVII, p. 813: 1948 I, p. 3304).

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(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.

(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.