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 STATUTORY INSTRUMENTS
 

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1970 No. 1464 (S.118)

**PENSIONS**

**The Superannuation (Teaching and Civil Service)  
Interchange (Scotland) Rules 1970**

*Made* - - - - - 1st October 1970

*Laid before Parliament* 14th October 1970

*Coming into Operation* 16th October 1970

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The Secretary of State with the consent of the Minister for the Civil Service and the Minister for the Civil Service, in exercise of the powers conferred on them by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act 1948(a), as amended by the Superannuation (Miscellaneous Provisions) Act 1967(b) and as read with the Minister for the Civil Service Order 1968(c), hereby jointly make the following rules:—

## PART I

### GENERAL

#### *Citation and Commencement*

1. These rules may be cited as the Superannuation (Teaching and Civil Service) Interchange (Scotland) Rules 1970 and shall come into operation on 16th October 1970.

#### *Revocation*

2.—(1) The Superannuation (Civil Servants and Teachers) (Scotland) Rules 1950(d), the Superannuation (Civil Servants and Teachers) (Scotland) Amending Rules 1961(e) and the Superannuation (Civil Servants and Teachers) (Scotland) Amending Rules 1966(f) are hereby revoked:

Provided that the rules hereby revoked shall continue to apply in relation to any person who, before the beginning of February 1969, became employed in teaching service or in established service 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(g) (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to the effect of repeals) shall have effect in relation to the rules revoked by this rule as if they were an enactment repealed by an Act.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 Act of 1965” means the Superannuation Act 1965(h);

“civil servant” means a person serving in an established capacity in the permanent civil service of the State within the meaning of section 98 of the Act of 1965;

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

“the Minister” means the Minister for the Civil Service;

“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(j) and any similar service immediately following

(a) 1948 c. 33.

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

(e) S.I. 1961/196 (1961 I, p. 338).

(g) 1889 c. 63.

(i) 1937 c. 69; 1939 c. 18; 1953 c. 25.

(b) 1967 c. 28.

(d) S.I. 1950/820 (1950 II, p. 236).

(f) S.I. 1966/448 (1966 I, p. 962).

(h) 1965 c. 74.

(j) 1951 c. 65.

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, as the case may be, before undertaking the service;

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

“pension” has the meaning assigned to it by the Act of 1948;

“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(a);

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

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

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

“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 teachers superannuation account” means the account kept under section 5 of the Teachers Superannuation (Scotland) Act 1968;

“the Transfer Value Regulations” means the Local Government Superannuation (Transfer Value) (Scotland) Regulations 1954(i);

“voluntary contributions” means—

(a) in relation to employment in teaching service, additional contributions 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 otherwise be reckonable; or

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

(b) in relation to service as a civil servant, payments being made to the Minister in pursuance of rule 8 or of any similar provision contained in other rules made under section 2 of the Act of 1948.

(2) Any reference in these rules to the provisions of any enactment, rules, regulations or other instrument shall, unless the context otherwise requires, be

(a) 1968 c. 12.

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

(c) 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).

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

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

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

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

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

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

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 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 ceased before the beginning of February 1969 to be employed in teaching service or to be a civil servant, a period of three months after the date on which he so ceased;
- (b) in the case of a person who ceased after the beginning of February 1969 to be employed in teaching service or to be a civil servant and thereupon became engaged in national service, a period of six months after the date of termination of the national service; 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 to be a civil servant.

(2) The Minister in the case of a person becoming a civil servant and the Secretary of State in the case of a person becoming employed in teaching service may in any particular case extend any period specified in paragraph (1) of this rule.

(3) 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 if—

- (a) in his new employment he is in teaching service and the Secretary of State is satisfied that by reason of the course he is better fitted for the duties of that employment; and
- (b) since he last ceased to be a civil servant no sum has been paid to him under rule 9 or any provision corresponding thereto contained in other rules made under the Act of 1948.

## PART II

### TRANSFER FROM TEACHING SERVICE TO CIVIL SERVICE

#### *Application*

5.—(1) Except as provided in paragraph (3) of this rule, this Part shall apply to a person who within the prescribed period after ceasing to be employed in teaching service—

- (a) after the beginning of February 1969 and before the operative date became a civil servant and does not elect within three months after that date that this Part shall not apply to him; or

- (b) on or after the operative date becomes a civil servant and, within three months after becoming a civil servant or within such longer period as the Minister may in any particular case allow—
- (i) gives notice in writing to the Department in which he is serving that he desires this Part to apply to him and furnishes that Department with particulars of his teaching service; and
  - (ii) pays to the Secretary of State an amount determined in accordance with paragraph (2) of this rule.
- (2) The amount to be paid by a person to the Secretary of State 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;
  - (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) above calculated at the rate of three-and-a-half per cent per annum with yearly rests from the day of the payment to him to the day 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 pension (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 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 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

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(a) 1965 c. 51.

(b) 1939 c. 96.

the meaning of the Teachers' Pensions (National Service) (Scotland) Rules 1952(a) in respect of which, at the time the amount of the transfer value is determined, 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 amount of the transfer value is determined, he has not elected to continue to pay such contributions.

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

#### *Reckoning of Service*

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

(a) so much service as is taken into account under rule 6 for calculating the amount of the transfer value shall be reckoned for the purposes of the Act of 1965 as service in the capacity of a civil servant; and

(b) any other period of service reckonable under the Teachers Regulations of 1969 only for the purpose of determining whether he had served for the minimum period necessary for any pension to be payable to or in respect of him shall to the same extent be reckoned only for the corresponding like purpose under the Act of 1965.

(2) Any period of service of a person to whom this Part applies which was reckonable under the Teachers Regulations of 1969 at a length other than its actual length shall be reckoned under the Act of 1965 as service of its actual length for the purpose of determining whether he has served for the minimum period necessary for any pension to be granted to or in respect of him.

#### *Voluntary Contributions*

8.—(1) A person to whom this Part applies—

(a) may, if he becomes a civil servant on or after the operative date, when giving notice in pursuance of rule 5(1)(b) elect to continue to pay voluntary contributions being paid by him immediately before ceasing to be employed in teaching service; or

(b) shall, if he became a civil servant before the operative date, be deemed to have elected to continue to pay such voluntary contributions.

(2) If a person elects or is deemed to have elected as aforesaid he shall—

(a) unless he has already done so, within three months after the operative date or becoming a civil servant, whichever shall be the later, or within such longer period as the Minister may in any particular case allow, pay to the Minister a sum equal to any sum paid to him on or after ceasing to be employed in teaching service by way of return of voluntary contributions, together with any interest added thereto and any sum deducted therefrom in respect of income tax; and

(b) thereafter pays to the Minister any amounts outstanding in respect of voluntary contributions at the times at which they would have been payable if he had remained in teaching service.

(3) If a person who elects or is deemed to have elected as aforesaid has paid or pays the sums payable to the Minister under paragraph (2) his service reckonable for the purposes of the Act of 1965 shall be affected in the manner prescribed by paragraphs (4) and (5).

(4) In respect of voluntary contributions made in respect of any period of previous employment or as a condition of service being increased by the addition thereto of a period, the period in question shall be reckoned for the purposes of the Act of 1965 as a period of service in the capacity of a civil servant:

Provided that no account shall be taken of the said period for the purpose of determining whether the person has served for the minimum period prescribed by the Act of 1965 as necessary for any pension to be paid to or in respect of him.

(5) In respect of voluntary contributions other than those to which paragraph (4) above applies, the service to which they relate shall be reckoned for the purposes of the Act of 1965 to the same extent, as nearly as may be, as it would by virtue of these rules have been so reckoned if payment thereof had been completed immediately before employment in teaching service ceased.

(6) If a person does not elect and is deemed not to have elected as aforesaid, or if he fails to pay any sum payable to the Minister under paragraph (2), the period to which the voluntary contributions relate shall be reckoned for the purposes of the Act of 1965 only to the extent, if any, to which it would by virtue of these rules have been so reckoned if payment of the voluntary contributions had been discontinued immediately before he ceased to be employed in teaching service.

#### *Payment on ceasing to be a Civil Servant*

9. Where a person to whom this Part applies ceases to be a civil servant otherwise than on dismissal in consequence of an offence of a fraudulent character or of grave misconduct and is not eligible for a superannuation allowance under the Act of 1965 the Minister may pay to or in respect of him whichever is the greater of the following sums:—

(a) the aggregate of—

- (i) the amount which would have been payable to him under the Teachers Regulations of 1969 on his ceasing to be employed in teaching service by way of repayment of contributions, together with compound interest thereon calculated at the rate of three per cent per annum with yearly rests from the day on which he ceased to be so employed to the day on which he ceased to be a civil servant; and
- (ii) any amounts paid to the Minister under rule 8, together with compound interest on each such amount calculated at the rate of three per cent per annum with yearly rests from the day on which it was paid to the day on which he ceased to be a civil servant; and

(b) such a sum as the person may be eligible to receive or as may be paid in respect of him under the Act of 1965 by way of short service gratuity or death gratuity.

#### *Benefits under Teachers Regulations*

10. Subject to the provisions of Part III and any provisions similar thereto contained in other rules made under section 2 of the Act of 1948, no payment of any pension 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.

*Modification of Benefits by reason of National Insurance*

11. The National Insurance (Modification of the Superannuation Acts) Regulations 1948(a) shall not apply to a person to whom this Part applies if, immediately before ceasing to be employed in teaching service, he was not subject to paragraph 3 of Schedule 5 to the Teachers Regulations of 1969.

## PART III

## TRANSFER FROM CIVIL SERVICE TO TEACHING SERVICE

*Application*

12.—(1) Except as provided in paragraph (2) of this rule, this Part shall apply to a person who within the prescribed period after ceasing to be a civil servant and with the consent of the Department in which he was serving—

- (a) after the beginning of February 1969 and before the operative date became employed in teaching service and does not elect within three months after that date that this Part shall not apply to him; or
- (b) on or after the operative date becomes employed in teaching service and, within three months after becoming so employed or within such longer period as the Secretary of State may, in any particular case allow, 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 service as a civil servant.

(2) This Part shall not apply to—

- (a) a person who has been granted a pension under the Act of 1965; or
- (b) a person to whom since he last ceased to be a civil servant any sum has been paid under rule 9 or any provision corresponding thereto contained in other rules made under the Act of 1948, unless—
  - (i) he became employed in teaching service not more than twelve months after ceasing to be a civil servant; and
  - (ii) within three months after the operative date or becoming so employed, whichever shall be the later, or within such longer period as the Minister may in any particular case allow, he repays to the Minister the sum so paid together with any income tax deducted therefrom on its payment.

*Transfer Value*

13.—(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 shall be 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 a civil servant, 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 service reckonable for the purposes of the Act of 1965 as service in the capacity of a civil servant.

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(a) S.I. 1948/498 (Rev. XVI, p. 309: 1948 I, p. 3291).



(3) For the purposes of paragraph (2) of this rule, service 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.

(4) In calculating the amount of a transfer value there shall be excluded any period in respect of which the person was immediately before ceasing to be a civil servant paying voluntary contributions and in respect of which, at the time the amount of the transfer value is determined, he has not elected to continue to pay such contributions.

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

#### *Reckoning of Service*

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

- (a) so much service as is taken into account under rule 13 for calculating the amount of the transfer value shall be reckonable service; and
- (b) any other period of service reckonable under the Act of 1965 only for the purpose of determining whether he had served for the minimum period necessary for any pension to be payable to or in respect of him shall to the same extent be reckoned only for the corresponding like purpose under the Teachers Regulations of 1969.

(2) Any period of service of a person to whom this Part applies which was reckonable under the Act of 1965 at a length greater than its actual length shall be reckoned as reckonable service of its actual length for the purpose of determining—

- (a) his average salary under section 4(3) of the Teachers Superannuation (Scotland) Act 1968; and
- (b) whether he has served for the minimum period necessary for any pension to be paid to or in respect of him.

#### *Voluntary Contributions*

**15.**—(1) A person to whom this Part applies—

- (a) may, if he becomes employed in teaching service on or after the operative date, when giving notice in pursuance of rule 12(1)(b) elect to continue to pay voluntary contributions being paid by him immediately before ceasing to be a civil servant; or
- (b) shall, if he became employed in teaching service before the operative date, be deemed to have elected to continue to pay such voluntary contributions.

(2) If a person who elects or is deemed to have elected as aforesaid pays to the Secretary of State any amount<sup>s</sup> outstanding in respect of voluntary contributions at the times at which they would have been payable if he had remained a civil servant his teaching service shall be affected in the manner prescribed by paragraphs (3) and (4).

(3) In respect of voluntary contributions paid as a condition of service being increased by the addition thereto of a period, that period shall be reckoned as reckonable service:

Provided that the said period shall be disregarded for the purposes of regulations 40 and 46 of the Teachers Regulations of 1969.

(4) In respect of voluntary contributions other than those to which paragraph (3) of this rule applies, the service to which they relate shall be reckoned for the purposes of the Teachers Regulations of 1969 to the same extent, as nearly as may be, as it would by virtue of these rules have been so reckoned if payment thereof had been completed immediately before the person ceased to be a civil servant.

(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 and is deemed not to have elected 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 those regulations only to the extent, if any, to which it would have been so reckoned if no such contributions had been made in respect thereof.

#### *Commencement of Employment*

16. 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 or, if earlier, the date of commencement of the period reckoned as reckonable service under rule 14(1) shall be deemed to be a date on which he became employed in teaching service.

#### *Return of Contributions*

17.—(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 of these rules 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) of this rule.

(2) For the purposes of paragraph (1) 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 Act of 1965*

18. Subject to the provisions of Part II and any provisions similar thereto contained in other rules made under section 2 of the Act of 1948, no payment of any pension shall be made under the Act of 1965 (except Parts III and IV thereof) to or in respect of any person to whom this Part applies.

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

19. Paragraphs 3 and 5 of Schedule 5 to the Teachers Regulations of 1969 shall not apply to a person to whom this Part applies and to whom, immediately before he ceased to be a civil servant, the National Insurance (Modification of the Superannuation Acts) Regulations 1948 did not apply unless, 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 otherwise elects by notice in writing to the Secretary of State.

St. Andrew's House,  
Edinburgh.  
26th September, 1970.

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

Given under the Official Seal of the Minister for the Civil Service on  
1st October 1970.

(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 consolidate, with amendments, the Superannuation (Civil Servants and Teachers) (Scotland) Rules 1950, as amended, and provide for the aggregation of service and a single superannuation award where persons transfer within a prescribed period from established service in the Civil Service to reckonable service under the Teachers Superannuation (Scotland) Regulations, or vice versa. Where such a transfer is made, the person is enabled to reckon previous service for pension under the superannuation scheme to which he transfers.

The principal amendments allow the application of the Rules to depend upon the choice, expressed by written notice within three months, of staff making a change, and the extension from three to twelve months of the permissible gap between employments. Provision is also made for these periods to be extended. The Rules are given retrospective effect to a limited extent under the express powers of, and subject to the safeguards required by, section 2(5) of the Superannuation (Miscellaneous Provisions) Act 1948.

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