1970. No. 235 **[C]**

EDUCATION

Superannuation

Interchange between the Teaching Service in Northern Ireland and Local Government Employment in England and Wales

RULES, DATED 26TH AUGUST 1970, MADE BY THE MINISTRY OF EDUCATION UNDER SECTIONS 12A, 12B, 25 AND 25A OF THE TEACHERS (SUPERANNUATION) ACT (NORTHERN IRELAND) 1950, WITH THE APPROVAL OF THE MINISTRY OF FINANCE.

The Ministry of Education (hereinafter referred to as "the Ministry") in exercise of the powers conferred on it by Sections 12A, 12B, 25 and 25A of the Teachers (Superannuation) Act (Northern Ireland) 1950 and of all other powers enabling it in that behalf, and with the approval of the Ministry of Finance, hereby makes the following rules:—

PART I

GENERAL

Citation

1. These rules may be cited as the Superannuation (Teaching in Northern Ireland and Local Government Employment in England and Wales) Interchange Rules (Northern Ireland) 1970 and shall come into operation on 1st September 1970.

Interpretation

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

"the Act" means the Teachers (Superannuation) Act (Northern Ireland) 1950(**a**);

"the Act of 1937" means the Local Government Superannuation Act 1937(**b**);

"the Act of 1909" means the Asylums Officers' Superannuation Act 1909(**c**);

"the Act of 1953" means the Local Government Superannuation Act 1953(**d**);

"the Acts of 1937 to 1953" means the Local Government Superannuation Acts 1937 to 1953;

"the Act of 1956" means the Teachers (Superannuation) (Amendment) Act (Northern Ireland) 1956(**e**);

"the Teachers Acts" means the Teachers (Superannuation) Acts (Northern Ireland) 1950 to 1967;

(a) 1950. c. 33.
(b) 1 Edw. 8 & 1 Geo. 6. c. 68.
(c) 9 Edw. 7. c. 48.
(d) 1 & 2 Eliz. 2. c. 25.
(e) 1956. c. 22.

"added years" means—

(i) in relation to a person in local government employment any additional years of service reckonable under regulation 12 of the Benefits Regulations, or that regulation as applied by or under any enactment, and includes any additional years of service which, having been granted thereunder, have subsequently become reckonable under or by virtue of any other enactment;

(ii) in relation to a person employed in contributory or recognised service any additional years of service of the nature of the additional years of service referred to in paragraph (i) of this definition which have become, or are in course of becoming, reckonable in his employment in contributory or recognised service;

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

"the Benefits Regulations" means the Local Government Superannuation (Benefits) Regulations 1954(f);

"contributory service" and "recognised service" have the same meanings respectively as they have under the Teachers Acts except that they do not include—

(*a*) service which is treated as recognised or contributory service under Section 13(2)(*g*) of the Act; or

(*b*) service which under the provisions of any scheme made under Section 42(1) of the Act, is treated in the same manner as service which is approved external service under Section 13 of the Act; or

(*c*) service in respect of which the person in question has received repaid contributions under the Teachers Acts (not being repaid contributions after last ceasing to be employed in recognised or contributory service) which he has not subsequently repaid to the Ministry under the proviso to Section 10(2) of the Act; or

(*d*) service which is treated as recognised or contributory service merely for the purpose of determining whether the person in question has completed the period of service required by the Teachers Acts as necessary for any superannuation benefit to be paid to or in respect of him or merely for that purpose and for the purpose of assessing his average salary under those Acts;

"enactment" includes an Act of the Parliament of the United Kingdom and any provision contained in an order, regulation, rule or other instrument having effect by virtue of such an Act;

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

"local Act" and "local Act Scheme" have the meanings assigned to them in the Act of 1937;

"local government employment" means employment by virtue of which the person is or is deemed to be a contributory employee or local Act contributor within the meaning of the Act of 1937;

"Local Government Modification Regulations" means the National Insurance (Modification of Local Government Superannuation Schemes) Regulations 1969(g);

(f) S.I. 1954. No. 1048. (g) S.I. 1969, No. 793.

"national service" in relation to any person means service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(**h**) and any similar service immediately following relevant service entered into with the consent of the authority or person by whom he was employed before undertaking that service or in the case of a person who holds an appointment to an office and is not employed under a contract of employment with the consent of the authority by whom he was appointed;

"operative date" means the date of the coming into operation of these Rules;

"pension" in relation to any person means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a lump sum or gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto;

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

"teaching service" means contributory service or recognised service;

"transfer value" has the same meaning as "Accrued Superannuation Value" as that expression is defined in the Act;

"the Transfer Value Regulations" means the Local Government Superannuation (Transfer Value) Regulations 1954(**i**);

"voluntary contributions" means—

(*a*) in relation to employment in teaching service, additional contributions being paid under Section 20 of the Act of 1956 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 Teachers' Salaries and Superannuation (War Service) Act (Northern Ireland) 1939(**j**) or of national service) being reckoned as contributory or recognised service; and

(*b*) in relation to local government employment, payments (other than completed payments, that is to say, payments made in respect of a liability which has been wholly discharged) of any of the following categories—

(i) additional contributory payments of the kind referred to in Section 2(3) and (4) of the Act of 1953;

(ii) any similar payments made under a local Act scheme as a condition of reckoning any period of service or of contribution for the purposes of the scheme, or, where the local Act scheme provides for the reckoning of non-contributing service, as contributing service for the purposes of the scheme;

(iii) any payments made for the purpose of increasing the length at which any period of service or of contribution would be reckonable for the purpose of calculating a benefit under a local Act scheme; and

(iv) any payments made in respect of added years.

(**h**) 14 & 15 Geo. 6. c. 65. (**i**) S.I. 1954, No. 1212.
(**j**) 2 & 3 Geo. 6. c. 33 (N.I.).

(2) Other expressions which have meanings assigned to them by the Acts of 1937 to 1953 have, unless the context otherwise requires, the same respective meanings for the purposes of these Rules.

(3) 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.

Prescribed Period

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

(*a*) in the case of a person who immediately after ceasing to be employed in teaching service or local government employment became engaged in national service, a period of six months after the date of termination of the national service; 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 in local government employment.

(2) The Ministry in the case of a person becoming employed in teaching service and the fund authority in the case of a person becoming employed in local government employment may, with the agreement of the other, in any particular case, extend the period of six months or twelve months, whichever is appropriate, specified in paragraph (1).

PART II

TRANSFER FROM TEACHING SERVICE TO LOCAL GOVERNMENT EMPLOYMENT

Application

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

(*a*) enters, or before the operative date entered, local government employment within the prescribed period after ceasing to be employed in teaching service;

(*b*) before or within three months after entering local government employment or within six months after the operative date, whichever period shall last expire, or within such longer period as the fund authority may with the agreement of the Ministry in any particular case allow, notifies that authority in writing that he desires this Part to apply to him and furnishes that authority with particulars in writing of any national service in which he has been engaged since ceasing to be employed in teaching service; and

(*c*) within three months after entering local government employment or within six months after the operative date, whichever period shall last expire, or within such longer period as the fund authority may in any particular case allow, pays to that authority an amount equal to any repaid contributions paid to him after he last ceased to be employed in teaching service, together with any compound interest thereon payable in accordance with paragraph (2).

(2) For the purposes of paragraph 1(*c*)—

(*a*) compound interest shall not be payable unless the period between a person's ceasing to be employed in teaching service and entering local government employment exceeds one year;

(*b*) compound interest shall be calculated on the amount of the repaid contributions at three per cent. per annum with half-yearly rests from the day one year after that on which the person ceased to be employed in teaching service or from the day on which repaid contributions were paid to him, whichever shall be the later to the day on which he notified the fund authority as required by paragraph (1)(*b*); and

(*c*) if the amount of compound interest calculated as aforesaid exceeds a sum equal to one half of the difference between the amount of the transfer value payable under rule 6 and the amount of the transfer value which would have been so payable if calculated by reference to the person's age on ceasing to be employed in teaching service, it shall be reduced to that sum.

Excepted Cases

5. This Part shall not apply to a person who—

(*a*) has received payment of any pension (other than repaid contributions) under the Teachers Acts;

(*b*) is a person in respect of whom a transfer value has been paid otherwise than under these Rules by the Ministry since he last ceased to be employed in teaching service;

(*c*) last ceased to be employed in teaching service before 1st April 1950; or

(*d*) last ceased to be employed in teaching service on or after 1st April 1950 but before the operative date, unless—

(i) he has been employed in local government employment without a break of twelve months or more at any one time from the date when he ceased to be employed in teaching service until the operative date or, if he ceased to be employed in local government employment before the operative date, until the date when he so ceased; and

(ii) if he ceased to be employed in local government employment before the operative date, the Ministry and the fund authority agree that this Part shall apply to him.

Transfer Value

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

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

(3) For the purposes of paragraph (2) 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(**k**), or under any provision

(**k**) 1965. c. 51.