1969. No. 175 **[C]**

EDUCATION

Superannuation

Interchange between the Teaching Service in Northern Ireland and certain Public Boards

RULES, DATED 2ND JULY 1969, MADE BY THE MINISTRY OF EDUCATION UNDER SECTIONS 12A AND 12B 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 and 12B of the Teachers (Superannuation) Act (Northern Ireland) 1950(a) 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 and Commencement

1. These Rules may be cited as the Superannuation (Teaching and Public Boards) Interchange Rules (Northern Ireland) 1969.

Interpretation

2.—(1) In these Rules—

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

"contributing service", "non-contributing service" and "contributory employee" have the same respective meanings as in the Local Government Superannuation Acts 1937 to 1953(b);

"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(c) 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;

"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 a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto;

(a) 1950. c. 33. (b) 1937. c. 68; 1939. c. 18; 1953. c. 25. (c) 14 & 15 Geo. 6. c. 65.

"pension authority" means the persons or body administering the public board pension scheme to which a person either becomes subject after ceasing to be employed in teaching service or, as the case may be, was last subject before he became employed in teaching service;

"prescribed period" has the meaning assigned to that expression by rule 3;

"public board" means a body employment under which is named in the Schedule to these Rules;

"public board employment" means an employment named in the Schedule to these Rules;

"public board pension scheme" means a scheme by which provision is made for pensions for persons employed by a public board;

"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 a return of contributions under the Teachers Acts (not being a return of 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;

"repaid contributions" means any sum paid to a person under the Act or a public board pension 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 income tax;

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

"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(**d**);

"voluntary contributions" means—

(*a*) in relation to employment in teaching service, additional contributions being paid under Section 20 of the Teachers (Superannuation) (Amendment) Act (Northern Ireland) 1956(**e**) in respect of a period of previous employment and any contributions being paid as a condition of actual service being increased by the addition thereto of any other period (not being a period of war service or national service); and

(**d**) S.I. 1954/1212 (1954 II, p. 1723). (**e**) 1956. c. 22.

(*b*) in relation to public board employment, payments (other than completed payments, that is to say, payments made in respect of a liability which has been wholly discharged) being made as a condition of—

(i) any period (not being a period of war service or national service) being added to actual employment and treated as pensionable; or

(ii) any period of employment being reckoned for the purpose of calculating benefits or being so reckoned at a value greater than that at which it would otherwise be reckonable.

(2) For the purposes of these Rules a person to whom a public board pension scheme applies shall be deemed to be employed by the public board for persons employed by which that scheme makes provision for pensions.

Prescribed Period

3.—(1) For the purpose 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 ceasing to be employed in teaching service or in public board 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 public board employment.

(2) The Ministry in the case of a person becoming employed in teaching service, and the pension authority in the case of a person becoming employed in public board 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).

(3) Subject as in paragraph (4) provided—

(*a*) in reckoning the periods of six months and twelve months specified in paragraph (1) 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;

(*b*) if a person left his former employment in order to undertake a course of study or training and on completion of that course became engaged in national service, he shall be deemed for the purposes of paragraph (1) to have left his former employment at the time when he completed the said course of study or training.

(4) The provisions of paragraph (3) shall not apply—

(*a*) to a person to whose new employment a public board pension scheme applies unless the pension authority are satisfied that by reason of his having undertaken the said course of study or training he is better fitted for the duties of his new employment; or

(*b*) to a person who in his new employment is in teaching service unless—

(i) before leaving his former employment (or, if between leaving that employment and undertaking the said course of study or training he was engaged in national service, before the end of that service) he gave notice in writing to the pension authority of his intention to undertake the said course of study or training; and

(ii) the Ministry is satisfied that by reason of his having undertaken the said course of study or training he is better fitted for the duties of his new employment.

Equivalent Pension Rights

4. A transfer value shall not be paid or received by the Ministry under these Rules in respect of a person transferring to or from public board employment unless the Ministry is satisfied that that person's pension rights in respect of that employment are, or will be, at least substantially equivalent to those in respect of teaching service.

PART II

TRANSFER FROM TEACHING SERVICE TO PUBLIC BOARD EMPLOYMENT

Application

5.—(1) Subject as in Rule 6 provided, this Part shall apply to a person who—

(*a*) becomes employed in public board employment within the prescribed period after ceasing to be employed in teaching service; and

(*b*) has not become entitled to any pension (other than repayment of contributions) under the Act.

(2) This Part shall apply to such person as aforesaid and shall be deemed to have applied to him notwithstanding that he ceased to be employed in teaching service or became employed in public board employment before the passing of the Act or the coming into operation of these rules:

Provided that—

(*a*) he ceased to be employed in teaching service not earlier than the 1st day of April 1950; and

(*b*) the Ministry and the pension authority consent.

Conditions for Application

6.—(1) This Part shall not apply to a person unless—

(*a*) within the period specified in paragraph (2), or within such longer period as the pension authority may with the agreement of the Ministry in any particular case allow, he notifies that authority in writing that he desires this Part to apply to him and furnishes that authority with particulars in writing of his teaching service; and

(*b*) within the period defined in paragraph (2), or within such longer period as the pension authority may in any particular case allow, he 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 compound interest thereon of an amount determined in accordance with paragraph (3).

(2) For the purposes of paragraph (1) the period shall be three months after the date of becoming employed in public board employment or six months after the operative date, whichever period last expires.

(3) For the purposes of paragraph (1)—

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

(*b*) if the aforesaid period exceeds one year, compound interest shall be calculated on the amount of the repaid contributions at three per cent. per annum with yearly rests from the date one year after that on which the person ceased to be employed in teaching service to the date on which he became employed in public board employment; 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 7 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.

Transfer Value

7.—(1) In respect of a person to whom this Part applies the Ministry shall, out of moneys provided by Parliament, pay to the pension 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 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 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(**f**), or under any provision corresponding thereto contained in an enactment repealed by that Act, in like manner and to the like intent, as nearly as may be, as it was affected or modified by the National Insurance (Modification of Teachers Annual Allowances) Regulations (Northern Ireland) 1951(**g**).

(4) In calculating the amount of a transfer value there shall be excluded—

(*a*) any period of war service within the meaning of the Teachers' Salaries and Superannuation (War Service) Act (Northern Ireland) 1939(**h**) and of relevant service within the meaning of the Teachers Superannuation (Service in the Reserve and Auxiliary Forces) Rules (Northern Ireland) 1958(**i**) in respect of which at the time the transfer value is paid, the contributions remain unpaid;

(*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; and

(*c*) any period of contributory service under a scheme made under Section 42(1A) of the Act.

(5) The amount of the transfer value payable in respect of a person shall, in lieu of being reduced in accordance with the proviso to paragraph 2 of the First Schedule to the Transfer Value Regulations, be reduced by—

(f) 1965. c. 51.
(g) S.R. & O. (N.I.) 1951, No. 129.
(h) 2 & 3 Geo. 6. c. 33.
(i) S.R. & O. (N.I.) 1958, No 97.