SUPERANNUATION

Transfers between Local Government service and the Civil Service

RULES DATED 27TH AUGUST, 1952, MADE BY THE MINISTRY OF FINANCE JOINTLY WITH THE MINISTRY OF HEALTH AND LOCAL GOVERNMENT UNDER SECTIONS FIVE AND TEN OF THE SUPERANNUATION (MISCELLANEOUS PROVISIONS) ACT (NORTHERN IRELAND), 1951, AND BY THE MINISTRY OF FINANCE UNDER SECTIONS SIX AND TEN OF THE SAID ACT.

1952. No. 163

The Ministry of Finance and the Ministry of Health and Local Government acting jointly in exercise of the powers conferred upon them by sections five and ten of the Superannuation (Miscellaneous Provisions) Act (Northern Ireland), 1951 (**a**), hereby make the rules contained in Parts I and II hereof and, the Ministry of Finance in exercise of the powers conferred on it by sections six and ten of the aforesaid Act hereby makes the rules contained in Parts I and III hereof.

PART I

General

1.—(1) These Rules may be cited as the Superannuation (Transfers between the Civil Service and Local Government) Rules (Northern Ireland), 1952, and shall come into force on 8th September, 1952.

(2) The Interpretation Act, 1889 (**b**), shall apply for the purposes of the interpretation of these rules in like manner as it applies by virtue of the Interpretation Act, 1921 (**c**) for the purposes of the interpretation of an Act of the Parliament of Northern Ireland.

2.—(1) In these rules, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

" the Act " means the Superannuation (Miscellaneous Provisions) Act (Northern Ireland), 1951 ;

" the Act of 1950 " means the Local Government (Superannuation) Act (Northern Ireland), 1950 (**d**) ;

" civil servant " means a person serving in an established capacity in the permanent civil service of Northern Ireland ;

" contributing service " means service which is reckonable as contributing service for the purpose of superannuation benefits provided under any regulations or scheme made under the Act of 1950 ;

(a) 1951 c.28. (b) 52 & 53 Vict. c.63. (c) 12 Geo. 5 c.4 (N.I.). (d) 1950 c.10.

" contributory employee " means a person employed in employment which entitles him to participate in superannuation benefits provided under any regulations or scheme made under the Act of 1950 ;

" national service " in relation to any person, means service of a description specified in the First Schedule to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951 (a), and includes any period immediately following the termination thereof during which the person, with the consent of the authority or body by whom he was employed before undertaking such service, continues in similar service ;

" non-contributing service " means service which is reckonable as non-contributing service for the purposes of superannuation benefits provided under any regulations or scheme made under the Act of 1950 ;

" pensionable employee " means a person employed in employment which is pensionable under any of the enactments set out in the first column of the Second Schedule to the Act of 1950, or under any such enactment as extended or applied by any of the enactments set out in the second column of that Schedule, or any local Act which makes provision for the superannuation of any officers of a local authority ;

" pension " and " pensionable employment " have the meanings respectively assigned to these expressions by the Act ;

" the Superannuation Acts " means the Superannuation Acts 1834 to 1919, as applied to the civil service of Northern Ireland and the Superannuation Acts (Northern Ireland), 1921 to 1951 ;

" transfer value " has the same meaning as " accrued superannuation value " as that expression is defined in the Act ;

" war service " means war service within the meaning of the Local Government Staffs (War Service) Act (Northern Ireland), 1939 (b), or service in any of the naval, military or air forces of the Crown, or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Act (Northern Ireland), 1941 (c).

(2) Any reference in these rules to the provisions of any enactment, rules or regulations, shall be construed, unless the context otherwise requires, as a reference to those provisions as amended or re-enacted by any subsequent enactment, rules or regulations, including these rules.

PART II

Provisions relating to officers transferring from Local Government employment to the Civil Service

3.—(1) Where a person either —

(a) 14 & 15 Geo. 6 c.65. (b) 2 & 3 Geo. 6 c.27. (c) 5 Geo. 6 c.6.

(*a*) becomes a civil servant within twelve months after ceasing to be either a pensionable or a contributory employee, or

(*b*) having been appointed to a post in the permanent civil service of Northern Ireland within twelve months after ceasing to be either a pensionable or a contributory employee becomes a civil servant, but owing to causes which in the opinion of the Ministry of Finance are reasonable does not become employed as a civil servant until after the expiration of such twelve months, or

(*c*) having left his employment as either a pensionable or a contributory employee in order to undertake war service or having become engaged in national service immediately after leaving such employment, becomes a civil servant within six months after the termination of such war service or national service, or

(*d*) having left his employment as either a pensionable or a contributory employee in order to undertake war service, or having become engaged in national service immediately after leaving such employment, and having been appointed to a post in the permanent civil service of Northern Ireland within six months after the termination of that service, becomes a civil servant, but owing to causes which in the opinion of the Ministry of Finance are reasonable does not become employed as a civil servant until after the expiration of such six months,

and has not become entitled to a pension other than a return of contributions in respect of his previous pensionable employment then, if the Ministry of Finance receives from the local authority by whom he was employed as a pensionable employee, or out of the superannuation fund to which he was a contributor as a contributory employee, a transfer value calculated in accordance with a method approved by the said Ministry and the Ministry of Health and Local Government less an amount equal to any sum which the trustees of the superannuation fund may become liable to pay by way of income tax in respect of the amount transferred by way of transfer value in respect of the service which the person was entitled to reckon as pensionable employment immediately before he ceased to be either a pensionable or a contributory employee, that service shall, subject to and in accordance with the conditions in this Part of these rules, be reckoned for the purposes of the Superannuation Acts as service in the capacity of a civil servant :

Provided that such person —

(i) within three months after the date on which he becomes a civil servant or within six months after the coming into operation of these rules, whichever period last expires, notifies the Department in which he is then employed or, if

he has ceased to be employed as a civil servant, the Department in which he was last employed that he desires these rules to apply to him, and furnishes such Department with particulars of his previous pensionable employment and war service or national service (if any) ; and

(ii) where he has received any payment by way of a return of contributions in respect of his previous pensionable employment, not being contributions made voluntarily for the purpose of securing benefits for his widow, children or other dependants, pays a sum equal to such payment to the Ministry of Finance within three months after the date on which he becomes employed as a civil servant or within six months after the coming into operation of these rules, whichever period last expires, or within such longer period as the Ministry of Finance may allow in any particular case.

(2) This Part of these rules shall apply to such person as aforesaid and shall be deemed always to have applied to him notwithstanding that he ceased to be either a pensionable or a contributory employee or became a civil servant before the passing of the Act or the coming into operation of these rules, provided that —

(*a*) if he has ceased to be employed as a civil servant before the coming into operation of these rules, the Ministry of Finance consents ; and

(*b*) he became a civil servant not earlier than the 1st day of April, 1950 ; and

(*c*) the local authority by whom he was employed as a pensionable employee or the authority maintaining the superannuation fund to which he was a contributor as a contributory employee, immediately before he became a civil servant, consents.

(3) Where a person to whom this Part of these rules applies ceased to be a pensionable or a contributory employee more than twelve months before the date of coming into operation of these rules, the transfer value receivable under this rule shall be calculated by reference to his age at that date.

(4) In this Part of these rules a person to whom this Part of these rules applies is referred to as " the officer ".

4.—(1) Where by virtue of any Act or scheme any period of service is reckoned at a fraction of its actual length for the purpose of calculating the transfer value received under Rule 3 of these rules, then only that fraction of that period of service shall be reckoned for the purposes of the Superannuation Acts as service in the capacity of a civil servant.

(2) Where part of the officer's service is reckonable at the time he ceased to be a pensionable employee as non-contributing service for superannuation purposes, that part shall as to one half of the period

thereof be reckoned for purposes of the Superannuation Acts as service in the capacity of a civil servant :

Provided that for the purpose of determining whether the officer has served for the minimum period prescribed by the Superannuation Acts as necessary for any pension to be paid to or in respect of him such part of his service as aforesaid shall be reckoned, as to the whole period thereof, as service in the capacity of a civil servant.

(3) Where the officer was in his pensionable employment a part-time employee and held no other pensionable employment, the period of his service as such part-time employee shall be treated for the purposes of these rules as if it had been whole-time service for a proportionately reduced period.

5. Where the officer was in the course of making, but had not completed making additional contributory payments under the superannuation regulations or scheme applicable to him as a contributory employee as a condition of being entitled to reckon as contributing service any period of non contributing service, then that service shall be reckonable as non-contributing service only, unless the officer pays to the Ministry of Finance sums equal to the additional contributory payments which he would have been liable to make had he continued to be a contributory employee at the time at which and in the manner in which those additional payments would have been made to the superannuation fund to which he was a contributor.

6. Where the officer had before becoming a civil servant been engaged in any such war service or national service as is referred to in Rule 3 of these rules, the period of service which becomes reckonable under the said Rule for the purpose of the Superannuation Acts shall be treated as being increased by the period of such war service or national service to the extent (if any) to which the said period of such war service or national service would have been reckonable as pensionable service for the purposes of the superannuation enactment, regulations or scheme to which he was subject either as a pensionable or as a contributory employee had he again become a pensionable or a contributory employee on the termination of such war service or national service :

Provided that this rule shall not apply in any case in which a period of national service would have been so reckonable as aforesaid unless the transfer value received under Rule 3 of these rules was calculated so as to include the liability of which the local authority by whom he was employed as a pensionable employee or the superannuation fund to which he was a contributor as a contributory employee was relieved in respect of the said period of national service.

7.—(1) Where the superannuation enactments, regulations or scheme applicable to the officer as a pensionable or a contributory employee conferred a discretion on the authority or body by whom he was employed or the authority maintaining the superannuation fund to which