
STATUTORY INSTRUMENTS

1993 No. 2513 (S.250)

EDUCATION, SCOTLAND

The Teachers' (Superannuation and Compensation for Premature Retirement) (Scotland) Amendment Regulations 1993

<i>Made</i>	- - - -	<i>19th October 1993</i>
<i>Laid before Parliament</i>		<i>25th October 1993</i>
<i>Coming into force</i>	- -	<i>15th November 1993</i>

The Secretary of State, in exercise of the powers conferred on him by sections 9, 12 and 24 of the Superannuation Act 1972⁽¹⁾, and of all other powers enabling him in that behalf, after consulting with representatives of education authorities and of teachers and with such representatives of other persons likely to be affected by these Regulations as appear to him to be appropriate, in accordance with section 9(5) of that Act and with the consent of the Treasury⁽²⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Teachers' (Superannuation and Compensation for Premature Retirement) (Scotland) Amendment Regulations 1993.

(2) These Regulations shall come into force on 15th November 1993 and shall have effect—

- (a) for the purposes of regulations 6, 7 and 9, as from 31st March 1992;
- (b) for the purposes of regulations 8 and 14, as from 1st April 1993;
- (c) for the purposes of regulation 18, as from 6th April 1988; and

(d) for the remainder as from the date of coming into force of these Regulations.

(3) In these Regulations “the principal Regulations” means the Teachers' Superannuation (Scotland) Regulations 1992⁽³⁾; and “the compensation Regulations” means the Teachers' (Compensation for Premature Retirement) (Scotland) Regulations 1980⁽⁴⁾.

(1) 1972 c. 11; section 9 was amended by sections 4(1), 8(3) and 11 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) and section 12 was amended by section 10 of that Act.

(2) The function was transferred to the Treasury by S.I. 1981/1670.

(3) S.I. 1992/280 as amended by S.I. 1992/1025, S.I. 1992/1597 and S.I. 1993/490.

(4) S.I. 1980/1254 as amended by S.I. 1982/918, S.I. 1984/845, S.I. 1986/412, S.I. 1992/1025, S.I. 1992/1597 and S.I. 1993/490.

Amendment of regulation C1 of the principal Regulations

2. In regulation C1 of the principal Regulations (salary on which contributions are payable)–
- (a) at the end of paragraph (2)(e) for “.” there shall be substituted “;”;
 - (b) after paragraph 2(e) there shall be inserted–
 - “(f) subject to paragraph (14), the equivalent money value to the teacher of the provision of a motor vehicle by or on behalf of his employer.”; and
 - (c) after paragraph (13) there shall be inserted–
 - “(14) Notwithstanding paragraph (2)(f), where on 15th November 1993 a teacher is paying contributions on a sum which represents the equivalent money value to him of the provision of a motor vehicle, the equivalent money value to him of the provision of a motor vehicle provided from time to time by or on behalf of the employer shall be treated as salary on which contributions will continue to be payable until the earlier of the date on which–
 - (a) a motor vehicle is no longer provided for him; or
 - (b) he ceases to be employed by the employer employing him on 15th November 1993.”.

Amendment of regulation C3 of the principal Regulations

3. In regulation C3 of the principal Regulations (additional contributions to purchase past added years)–
- (a) paragraph (6)(e) shall be deleted;
 - (b) for paragraph (6)(f) there shall be substituted–
 - “(f) if payment is made by Method C, must satisfy paragraph 13 of Schedule 4;”;
 - (c) at the end of paragraph (6)(g) for “; and” there shall be substituted “.”;
 - (d) paragraph (6)(h) shall be deleted;
 - (e) in paragraph (9) for the words “paragraphs (10) and (11)” there shall be substituted the words “paragraph (11)”;
 - (f) paragraph (10) shall be deleted; and
 - (g) for paragraph (13) there shall be substituted–
 - “(13) An election under this regulation shall be revoked only where a written request seeking revocation has been accepted in writing by the Secretary of State but any additional contributions paid to the date of such acceptance shall not be refunded.
 - (13A) Where an election to make payment by Method C is revoked, a further election to make payment by that method may not be made within 5 years after the date of acceptance by the Secretary of State of such revocation.”.

Insertion of regulation C8A of the principal Regulations

4. After regulation C8 of the principal Regulations there shall be inserted–
- “Additional contributions for current period: service in a reserve force**
- C8A.—(1) This regulation applies to a teacher who–**

- (a) has ceased to be in pensionable employment by virtue of being called into service in pursuance of section 26(1)(a) of the Reserve Forces Act 1980⁽⁵⁾ (“the 1980 Act”); and
- (b) does not apply for payment of any retirement benefits to which he would otherwise be entitled on ceasing to be in such employment.

(2) Subject to paragraphs (10) and (11), a teacher to whom this regulation applies may elect to pay additional contributions in order to become entitled to count as reckonable service a period (“the period”) beginning on the day after the cessation of the pensionable employment and ending with the date on which he is released from service in a reserve force in pursuance of section 29 of the 1980 Act or any earlier date on which that service is terminated by the appropriate service authorities.

(3) An additional contribution is payable for each financial year and is 6 per cent of the notional salary for so much of the period as falls within that year.

(4) The notional salary is the salary that would have been payable if pensionable employment had not ceased and the teacher had continued to be employed in the same post and on the same terms.

(5) Subject to paragraphs (7) and (8), an election under this regulation must be made in writing to the Secretary of State at any time between the cessation of pensionable employment and 6 months after the return to pensionable employment following service in a reserve force.

(6) An election has effect only if the teacher pays—

- (a) any contribution under this regulation within three months of the date of a written notification by the Secretary of State that payment is due; and
- (b) all contributions and payments due by him in respect of the period by virtue of any election made under regulations C3 (additional contributions to purchase past added years), C9 (additional contributions for family benefits) or C13 (repayment of returned contributions).

(7) An election made before the end of the period must specify the day on which the period begins; and an election made after the end of the period must specify the period.

(8) Subject to paragraph (10), where the teacher dies during service in a reserve force without having made an election under this regulation, such an election shall be deemed to have been made so that the period beginning on the day after the cessation of the pensionable employment and ending with the date of his death shall count as reckonable service.

(9) Any contribution due under this regulation at the date of a teacher’s death during his service in a reserve force shall be deducted from any benefits payable under these Regulations.

(10) Notwithstanding that a teacher to whom this regulation applies has not made an election under this regulation, he shall be entitled to count the period as reckonable service where during the period his service pay, when aggregated with any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951⁽⁶⁾, is less than the remuneration he would have received if he had during the period continued in the pensionable employment in which he was employed immediately before being called into service in a reserve force.

(11) For the purposes of paragraph (10), “service pay” means the pay for performing service in a reserve force, and includes marriage, family and other similar allowances.”.

(5) 1980 c. 9.
(6) 1951 c. 65.

Amendment of regulation D1 of the principal Regulations

5. In regulation D1(1) of the principal Regulations (reckonable service generally)–
- (a) after sub-paragraph (b) there shall be deleted the word “and”;
 - (b) at the end of sub-paragraph (c) for “.” there shall be substituted “; and”; and
 - (c) after sub-paragraph (c) there shall be inserted–
 - “(d) subject to the payment of requisite contributions under Part C, counting as reckonable service by virtue of regulation C8A (service in a reserve force).”.

Amendment of regulation E5 of the principal Regulations

6. In regulation E5 of the principal Regulations (entitlement to payment of retiring allowances)–
- (a) in paragraph (1)(f)(iii) after the words “pensionable employment” where they first occur there shall be inserted the words “or in excluded employment”; and
 - (b) in paragraph (2)(c) the word “pensionable” shall be deleted.

Amendment of regulation E9 of the principal Regulations

7. In regulation E9 of the principal Regulations (enhancement of retirement benefits in case of incapacity) after paragraph (8) there shall be inserted–
- “(9) For the purposes of this regulation a teacher is to be treated as having been in pensionable employment during any period for which he was paying additional contributions under regulations C8 or C8A.”.

Amendment of regulation E10 of the principal Regulations

8. In regulation E10(1) of the principal Regulations (avoidance of duplicate pensions) for the words “community charges” there shall be substituted “council tax”.

Amendment of regulation E15 of the principal Regulations

9. In regulation E15(4) of the principal Regulations (abatement of retirement pension) in the explanation of the symbol “C” after the word “pension” there shall be inserted–
- “or, if applicable, the highest annual rate of contributable salary that was payable to him during the 3 years ending immediately before he ceased to be employed in any pensionable employment entered into by him after he became entitled to payment of the pension, whichever is the greater”.

Amendment of regulation E19 of the principal Regulations

10. In regulation E19 of the principal Regulations (death gratuities)–
- (a) in paragraph (1)(b) after the words “C8 (current added years)” there shall be inserted the words “or under regulation C8A (service in a reserve force)”; and
 - (b) in paragraph (4) after the words “6th April 1988” there shall be inserted “, or 5 years’ reckonable service if pensionable employment ceased prior to that date”.

Amendment of regulation E29 of the principal Regulations

11. In regulation E29(2) of the principal Regulations (pensionable salary)–
- (a) at the end of sub-paragraph (c) for “.” there shall be substituted “; and”; and
 - (b) after sub-paragraph (c) there shall be inserted–

- “(d) any period counting as reckonable service by virtue of regulation C8A (service in a reserve force).”.

Amendment of regulation G5 of the principal Regulations

- 12.** In regulation G5 of the principal Regulations (employers' contributions)–
- (a) in paragraph (4)(a) after the word “it” there shall be inserted the words “other than of a person who is in the employment of an employment business”; and
 - (b) after paragraph (4) there shall be inserted–
“(5) In this regulation “employment business” has the meaning assigned to it by section 13(3) of the Employment Agencies Act 1973(7).”.

Amendment of Schedule 1 to the principal Regulations

- 13.** In Schedule 1 to the principal Regulations (glossary of expressions) in the meaning opposite the expression “Adviser” after the word “person” where it first occurs there shall be inserted the words “employed as an educational psychologist or”.

Amendment of Schedule 2 to the principal Regulations

- 14.** In Schedule 2 to the principal Regulations (pensionable employment)–
- (a) in paragraph 1 for the words “raised by the community charges” there shall be substituted the words “raised by the non-domestic rates and the council tax”; and
 - (b) after paragraph 4A there shall be inserted–
“**4B.** Employment as a teacher in the Scottish Further Education Unit.”.

Amendment of Schedule 4 to the principal Regulations

- 15.** In Schedule 4 to the principal Regulations (additional contributions to purchase past added years)–
- (a) in paragraph 2(1) for the words after “following” there shall be substituted the words “the expiry of a period of one month from the date of acceptance of the election by the Secretary of State.”;
 - (b) in paragraph 4(2)(b) for the words “next anniversary of the start of the contribution period” there shall be substituted the words “first day of the month following the date of its acceptance by the Secretary of State”;
 - (c) in paragraph 4(3) for the word “From” there shall be substituted the words “Subject to sub-paragraph (4), from”;
 - (d) in paragraph 4(3)(c) the words “that number multiplied by” shall be deleted;
 - (e) after paragraph 4(3) there shall be inserted–
“(4) Where the teacher has already made one or more elections under this paragraph, calculations relating to the change in the rate at which additional contributions are payable shall be made on an actuarial basis.”; and
 - (f) after paragraph 4 there shall be inserted–

“**4A.**—(1) At any time during the contribution period the teacher may by giving written notice to the Secretary of State elect to reduce the rate at which the additional contributions are payable.

(2) An election under this paragraph shall specify whether the reduced rate is to be paid—

- (a) in respect of the balance of the contribution period, specified in the principal election, after the election under this paragraph has effect in accordance with sub-paragraph (3), or
- (b) for a particular period, specified in the election, extending beyond the contribution period during which additional contributions were to be paid in respect of the past period specified in the principal election.

(3) An election under this paragraph—

- (a) has effect only if the Secretary of State notifies the teacher in writing that it has been accepted, and
- (b) on acceptance, has effect as from the first day of the month following the date of its acceptance by the Secretary of State.

(4) Calculations relating to any change in the amount of reckonable service to which the teacher will become entitled, or to any change in the contribution period, resulting from an election under this paragraph shall be made on an actuarial basis.”.

Amendment of Schedule 5 to the principal Regulations

16. In Schedule 5 to the principal Regulations (additional contributions to purchase added years under earlier provisions)—

- (a) in paragraph 1(1) for the words “sub-paragraphs (2) to (5)” there shall be substituted the words “sub-paragraphs (1A) to (5)”; and
- (b) after paragraph 1(1) there shall be inserted—

“**1A)** An election in respect of which contributions remained to be paid under regulation 23 of the 1977 Regulations shall be revoked where a written request seeking revocation has been accepted in writing by the Secretary of State but any additional contributions paid to the date of such acceptance shall not be refunded.”.

Amendment of Schedule 7 to the principal Regulations

17. In Schedule 7 to the principal Regulations (incomplete payment of additional contributions)—

- (a) for paragraph 1 there shall be substituted—

“**1.**—(1) Subject to sub-paragraph (8), this paragraph applies where a teacher paying additional contributions for a past period in accordance with Part I of Schedule 4—

- (a) ceases to be in full-time pensionable employment before the end of the period during which they were to be paid (“the contribution period”); and
- (b) does not again enter such employment within one month and before becoming entitled to payment of retiring allowances,

and no lump sum payment is made under paragraph 5, 6 or 8 of Schedule 4.

(2) In this paragraph, subject to sub-paragraphs (5) and (7), A is the past period and B is the contribution period.

(3) Subject to sub-paragraphs (4), (5) and (7), the teacher is entitled to count as reckonable service—

$$A \times \frac{C}{B}$$

where

C is so much of the contribution period as had elapsed when the pensionable employment ended.

(4) Subject to sub-paragraphs (5) and (7), if when the pensionable employment ended the teacher was incapacitated and had not attained the age of 60, he is entitled to count as reckonable service—

(a) where the contribution period would not have expired before he attained that age—

$$A \times \frac{D}{B}$$

where D is the period from the start of the contribution period to his 60th birthday; or

(b) in any other case, A.

(5) Subject to sub-paragraph (7), if the teacher had made one election under paragraph 4 of Schedule 4 to shorten the contribution period—

(a) he is in any case entitled to count as reckonable service—

$$A \times \frac{F}{E}$$

where E is the original contribution period and F is so much of it as had elapsed by the effective date of the election; and

(b) sub-paragraphs (3) and (4) have effect with the substitution—

(i) As A, of

$$A - \frac{(A \times F)}{E};$$

;

(ii) as B, of the part of the shortened contribution period from the effective date of the election;

(iii) as C, of so much of the part of the shortened contribution period from the effective date of the election as had elapsed when the pensionable employment ended; and

(iv) as D, of the period from the effective date of the election to his 60th birthday.

(6) If the teacher had made two or more elections under paragraph 4 of Schedule 4 to shorten the contribution period, calculations relating to the amount of reckonable service he is entitled to count shall be made on an actuarial basis.

(7) If the teacher had made an election under paragraph 4A of Schedule 4 to reduce the rate at which the additional contributions are payable, calculations relating to the amount of reckonable service he is entitled to count shall be made on an actuarial basis.

(8) This paragraph also applies where an election in respect of which additional contributions for a past period were paid by a teacher in accordance with Part I of

Schedule 4 is revoked in accordance with regulation C3(13), but in this case references to when the pensionable employment ended shall be read as references to the first day of the month following the date on which revocation of that election was accepted by the Secretary of State.”;

(b) in paragraph 3(1) for the word “This” there shall be substituted the words “Subject to sub-paragraph (5), this”;

(c) after paragraph 3(4) there shall be inserted–

“(5) This paragraph also applies where an election in respect of which additional contributions for a past period were paid by a teacher in accordance with Part III of Schedule 4 is revoked in accordance with regulation C3(13), but in this case references to the end of pensionable employment shall be read as references to the first day of the month following the date on which revocation of that election was accepted by the Secretary of State.”; and

(d) after paragraph 3 there shall be inserted–

“**3A.**—(1) This paragraph applies where an election in respect of which a teacher continued to pay contributions to purchase past added years in accordance with paragraph 1 of Schedule 5 is revoked in accordance with paragraph 1(1A) of that Schedule.

(2) Subject to sub-paragraph (3), where this paragraph applies the teacher is entitled to count as reckonable service–

$$A \times \frac{C}{B}$$

where–

A is the period of added years being purchased,

B is the contribution period, and

C is so much of B as had elapsed by the first day of the month following the date on which the revocation of that election was accepted by the Secretary of State.

(3) Where the teacher has already made one or more elections under sub-paragraph 1(2) of Schedule 5 to pay contributions at a higher rate, calculations relating to the amount of reckonable service he is eligible to count shall be made on an actuarial basis.”.

Amendment of regulation 3 of the compensation Regulations

18. In regulation 3 of the compensation Regulations (definitions) there shall be substituted for the definition of “widow”–

““widow” means the spouse of a deceased designated teacher.”.

Amendment of regulation 4 of the compensation Regulations

19. In regulation 4(b)(ii) of the compensation Regulations (teachers to whom the regulations apply) after the word “allowance” there shall be inserted the words “and has not less than 5 years’ reckonable service”.

Amendment of regulation 20 of the compensation Regulations

20. In regulation 20(3) of the compensation Regulations at the end of sub-paragraph (c) for “.” there shall be substituted “;” and there shall be inserted thereafter–

- “(d) the date of closure of the educational establishment referred to in paragraph (g) of Schedule 4 shall be the date on which the school ceases to be a grant-aided school as defined in section 135(1) of the Education (Scotland) Act 1980⁽⁸⁾;
- (e) the date of closure of an educational establishment referred to in paragraph (h) of Schedule 4 shall be the date on which the board of management ceases to manage the school and the Secretary of State’s duty to maintain the school ceases in accordance with section 31 of the Self-Governing Schools etc. (Scotland) Act 1989⁽⁹⁾; and
- (f) the date of closure of the Scottish Further Education Unit referred to in paragraph (i) of Schedule 4 shall be such date as that Unit is dissolved.”.

Amendment of Schedule 4 to the compensation Regulations

21. In Schedule 4 to the compensation Regulations (employing authorities, who may credit an eligible teacher with an additional period of service) at the end of paragraph (f) for “.” there shall be substituted “;” and there shall be inserted thereafter–

- “(g) Jordanhill School Ltd, Glasgow, being the company limited by guarantee and incorporated under the Companies Act 1985 which manages Jordanhill School, Glasgow;
- (h) The board of management of a self-governing school within the meaning of section 1(3) of the Self-Governing Schools etc. (Scotland) Act 1989; and
- (i) The Scottish Further Education Unit.”.

Right to opt out

22. No provision of these Regulations which amends the principal Regulations shall apply to any person to whom at any time before 15th November 1993 any benefit including a return of contributions was or may become payable if–

- (a) he is placed by that provision in a worse position than he would have been if it had not applied in relation to that benefit; and
- (b) that provision relates to a benefit paid or payable in respect of a person who–
 - (i) ceased before 15th November 1993 to be in pensionable employment; or
 - (ii) died before that date while in pensionable employment; and
- (c) the person first mentioned in this regulation elects, by giving notice in writing to the Secretary of State by 14th May 1994, that the provision shall not apply to him.

St Andrew’s House,
Edinburgh
9th September 1993

Fraser of Carmyllie
Minister of State, Scottish Office

⁽⁸⁾ 1980 c. 44; the definition of “grant-aided school” was amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(22)(b).

⁽⁹⁾ 1989 c. 39.

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We consent,

19th October 1993

Timothy Kirkhope
T J R Wood
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Teachers' Superannuation (Scotland) Regulations 1992 (“the principal Regulations”) and the Teachers' (Compensation for Premature Retirement) (Scotland) Regulations 1980 (“the compensation Regulations”).

Amendments to the principal Regulations—

- (a) exclude from contributable salary the money value to a teacher of a car provided for his use by his employer, unless he is already paying contributions by reference to such money value (regulation 2);
- (b) remove certain restrictions on the period which may be purchased under past added years arrangements; withdraw the condition that past added years elections are irrevocable; provide a time limit of 5 years before a teacher, who has revoked a Method C election, can make a further such election and provide for calculation of the reckonable service to be credited where an election is revoked (regulations 3, 16 and 17);
- (c) enable service in a reserve force to count as reckonable service if the teacher makes an appropriate election and pays certain contributions; provide that the death gratuity payable on death while in service in a reserve force will be that appropriate on death in pensionable employment and provide for service in a reserve force to be taken into account in calculating a teacher’s pensionable salary (regulations 4, 5, 10(a) and 11);
- (d) provide for the early payment of preserved retirement benefits where a person who has elected that his employment is no longer to be pensionable becomes redundant (regulation 6);
- (e) provide for enhancement of benefits where incapacity occurs after pensionable employment has ended but while additional contributions are being paid for a current period (current added years) (regulation 7);
- (f) make amendments consequential upon introduction of the council tax (regulations 8 and 14(a));
- (g) provide that the salary of reference used to calculate abatement of retirement pension where a teacher retires more than once is to be assessed at each retirement, with the most beneficial rate being applied (regulation 9);
- (h) provide for payment of a death gratuity where a teacher ceased to be in pensionable employment prior to 6th April 1988 and had 5 years' reckonable service (regulation 10(b));
- (i) provide that, where a teacher in a school maintained by a local education authority is employed by an employment business, that business rather than the authority is responsible for paying the employer’s contributions (regulation 12);
- (j) extend the definition of “teacher” to include educational psychologists and “pensionable employment” to include employment with the Scottish Further Education Unit (regulations 13 and 14(b)); and
- (k) provide for reduction of the contribution rate under a Method A election to purchase past added years (regulation 15).

Amendments to the compensation Regulations extend the benefits of those Regulations to the spouse of a post-retirement marriage (regulation 18), clarify that at least 5 years' service is required

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(regulation 19) and take account of the introduction of self-governing schools and of changes in the status of certain other educational establishments (regulations 20 and 21).

Sections 12(1) and 24(3) of the Superannuation Act 1972 confer express power to make Regulations retrospective in effect. Regulation 1 provides that certain provisions of these Regulations shall have retrospective effect namely—

- (a) regulations 6, 7 and 9, as from 31st March 1992;
- (b) regulations 8 and 14, as from 1st April 1993; and
- (c) regulation 18, as from 6th April 1988.

Regulation 22 makes transitional provision for opting out where benefits in respect of ex-employees under the principal Regulations are adversely affected by any provision of these Regulations which has retrospective effect.