
STATUTORY INSTRUMENTS

1994 No. 2699 (S.137)

EDUCATION, SCOTLAND

**The Teachers' Superannuation (Scotland)
Amendment Regulations 1994**

Made - - - - 11th October 1994
Laid before Parliament 28th October 1994
Coming into force in accordance with article 1(2)

The Secretary of State, in exercise of the powers conferred on him by sections 9 and 12 of and Schedule 3 to the Superannuation Act 1972((1)) and of all other powers enabling him in that behalf, after consulting with representatives of local 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 effect

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Scotland) Amendment Regulations 1994.

(2) These Regulations shall—

- (a) come into force on 30th November 1994, except for regulation 8 which shall come into force on 1st April 1995; and
- (b) have effect for the purposes of regulation 9 from 1st April 1994.

Interpretation

2. In these Regulations “the principal Regulations” means the Teachers' Superannuation (Scotland) Regulations 1992((3)).

Resumption of membership

3. In regulation B7 of the principal Regulations—

(1) 1972 c. 11; section 9 was amended by sections 4(1), 8(3) and (4) 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; relevant amending instrument is S.I. 1993/2513.

- (a) in paragraph (1) for the words “paragraphs (5) and (6),” there shall be substituted the words “paragraph (6)”;
- (b) paragraph (5) shall be deleted; and
- (c) paragraph (6)(a) shall be deleted.

Additional contributions to purchase past added years

- 4. In regulation C3 of the principal Regulations—
 - (a) in paragraph (1)(a) the words “except where paragraph (5) applies,” shall be deleted;
 - (b) in paragraph (2), for the words “(3) to (12)” there shall be substituted “(4) and (6) to (12)”;
 - (c) after paragraph (2)(b) the word “or” shall be inserted;
 - (d) paragraph (2)(d) and the word “or” preceding it shall be deleted;
 - (e) paragraphs (3) and (5) shall be deleted;
 - (f) paragraph (6)(g)(ii) and the word “or” preceding it shall be deleted; and
 - (g) paragraph (12)(d)(ii) and the word “, and” preceding it shall be deleted.

Additional contributions to purchase past added years in the case of a deceased teacher

- 5. In regulation C4 of the principal Regulations there shall be deleted—
 - (a) paragraph (1)(b)(ii) and the word “and” preceding it; and
 - (b) paragraph (4)(a).

Return of certain contributions paid for family benefits

- 6. In regulation C12 of the principal Regulations—
 - (a) in paragraph (1), for the words “paragraph 3” there shall be substituted the words “paragraph 2”; and
 - (b) paragraph (1)(b) shall be deleted.

Repayment of returned contributions

- 7. In regulation C13 of the principal Regulations, after paragraph (6) there shall be inserted—
 - “(7) For the purposes of this regulation, a person is to be treated as being in pensionable employment if he is paying additional contributions under regulation C8 or under regulation C8A.”.

Reckonable service generally

- 8. In regulation D1 of the principal Regulations—
 - (a) for paragraph (3) there shall be substituted—
 - “(3) Where during a financial year a teacher has spent one or more periods in part-time service, each such period counts as—

$$365 \times \frac{A}{B} \text{ days of reckonable service}$$

where

A is the number of hours worked by the teacher and B is the number of hours which would have been worked if the employment had been full-time and had continued throughout the year.”

(b) after paragraph (4) there shall be inserted the following paragraph:–

“(5) In calculating the length of reckonable service–

(a) no account shall be taken of a leap year day (29th February), except as provided in sub-paragraph (b) below; but

(b) where total reckonable service which includes part of a year ends in a leap year on or after the leap year day, that day shall be included in the number of days of reckonable service.”.

Abatement of retirement pension

9. In regulation E15 of the principal Regulations–

(a) in paragraph (2) there shall be deleted the words “in respect of any employment falling within paragraph (1) being employment which is expressed to be regular employment”;

(b) paragraph (3) shall be deleted; and

(c) in paragraph (4), for the words “paragraphs (2) and (3)” there shall be substituted “paragraph (2)”.

Death gratuities

10. In regulation E19(7) of the principal Regulations there shall be inserted after the words “it shall be paid” the words “to the person nominated by the deceased to receive the gratuity or, in the absence of such a nomination,”.

Deficiency grants

11. In regulation E20(6) of the principal Regulations there shall be inserted after the words “it shall be paid” the words “to the person nominated by the deceased to receive the grant or, in the absence of such a nomination,”.

Family benefits generally

12. In regulation E21(6)(b) of the principal Regulations there shall be inserted after the word “calling” the words–

“and he has been receiving full-time education or attending such course of training or both continuously since having attained that age without a break at any one time of longer than 18 months”.

Nomination of beneficiaries

13. In regulation E22(1) of the principal Regulations for the words “while in pensionable employment” there shall be substituted the words “before retirement benefits have been paid”.

Amounts of children’s long-term pensions

14. In regulation E27(3) of the principal Regulations for the words “regulation E26(6)” there shall be substituted the words “regulation E26(8)”.

Modified application in case of employment at reduced salary

15. In regulation H1 of the principal Regulations—

(a) for paragraph (1)(a) there shall be substituted the following:—

“(a) a teacher who has been in pensionable employment either—

(i) is transferred to employment in a different post with the same employer; or

(ii) having ceased to be employed is re-employed within 6 months in a different post with the same employer,

at a reduced rate of contributable salary; and”;

(b) in paragraph (1)(b) there shall be inserted after the word “to” the word “be”; and

(c) there shall be inserted at the end of paragraph (3) the following paragraph:—

“(4) Where a board of management becomes a person’s employer by virtue of the operation of section 22 of the Self-Governing Schools etc. (Scotland) Act 1989((4)) or section 15 of the Further and Higher Education (Scotland) Act 1992((5)) then, for the purposes of this regulation, the said board of management shall be treated as the same employer as the education authority who employed that person immediately before his employment was transferred pursuant to that section.”.

Glossary of expressions

16. In Schedule 1 to the principal Regulations, in the definition of “Incapacitated”, for the words “community charges” there shall be substituted the words “council tax”.

Additional contributions to purchase past added years

17.—(1) In Table 1 in paragraph 3 of Schedule 4 to the principal Regulations—

(a) for the figure “2.17” for the percentage contribution for age 54, contribution period 8 years, there shall be substituted the figure “2.71”; and

(b) for the figure “0.86” for the percentage contribution for age 40, contribution period 23 years, there shall be substituted the figure “0.90”.

(2) In Table 5 in paragraph 14 of Schedule 4 to the principal Regulations, for the figure “.0187” corresponding to rate of interest 8.00-8.49% and contribution period 6 years, there shall be substituted the figure “.0178”.

(3) Part IV of Schedule 4 to the principal Regulations (Method D) shall be deleted.

Additional contributions to purchase added years under earlier provisions

18. In Schedule 5 to the principal Regulations, for paragraph 1(5)(b) there shall be substituted the following:—

“(b) has effect from the beginning of the month following the month in which the Secretary of State gives written notice of his acceptance of the election.”.

Allocation of part of retirement pension

19. In paragraph 1 of Schedule 10 to the principal Regulations there shall be inserted an additional sub-paragraph as follows:—

(4) 1989 c. 39.

(5) 1992 c. 37.

“(3) The part allocated must not be such as to cause the retirement pension payable to be less than the guaranteed minimum.”.

Transitional provision

20. The amendment to regulation E21(6)(b) of the principal Regulations made by regulation 12 above shall not apply in relation to a provision to or for the benefit of a child of a person who was in pensionable employment but ceased to be so employed before 30th November 1994, or who died before that date.

Right to opt out

21.—(1) This regulation shall apply in the case of any person (“a relevant beneficiary”) to whom any benefit (including a return of contributions) is or may become payable, being a benefit (“a relevant benefit”) payable to or in respect of a person who before the date when the regulation making the amendment referred to in paragraph (2) comes into force—

- (a) ceased to be in pensionable employment (whether or not he has subsequently recommenced any such employment); or
- (b) died while still in such employment.

(2) If, in relation to a relevant benefit, a relevant beneficiary—

- (a) would be placed by any amendment made by these Regulations in a worse position than he would have been in if that amendment had not been made, and
- (b) so elects, by notice in writing given to the Secretary of State before the relevant date,

then, in relation to that benefit, the principal Regulations shall have effect, subject to paragraph (4), as if the amendment had not been made.

(3) For the purpose of paragraph (2) the relevant date is—

- (a) in the case of the amendments made by regulation 10 or 11, the date 6 months after that regulation comes into force or the date one month after the death in respect of which the relevant benefit may be paid, whichever is later;
- (b) in the case of the amendments made by any other regulation, the date 6 months after that regulation comes into force.

(4) If such an election as is mentioned in paragraph (2) is made, in relation to a benefit which is or may become payable to him, by a person who is in pensionable employment when the regulation making the amendment comes into force or who recommences service in such employment, then—

- (a) the election shall have effect in relation to the benefit only to the extent that it accrues, or has accrued—

- (i) by virtue of periods of service rendered before the cessation referred to in paragraph (1) above or, if there has been more than one such cessation, the last of them before the regulation making the amendment comes into force; or

- (ii) by virtue of contributions paid in respect of any such periods of service; and

- (b) in determining entitlement to, or the amount of, the benefit to that extent he shall (without prejudice to the application of this paragraph) be treated as if he had never recommenced service in such employment at any time after the cessation referred to in sub-paragraph (a) above,

and the principal Regulations shall apply accordingly.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

St Andrew's House,
Edinburgh
28th September 1994

Fraser of Carmyllie
Minister of State, Scottish Office

We consent

11th October 1994

A J B Mitchell
Kenneth Clarke
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Teachers' Superannuation (Scotland) Regulations 1992 (“the principal Regulations”).

Regulation B7 of the principal Regulations prescribed, before these Regulations were in force, that, once a person who had already elected under that regulation to resume pensionable status made a further election under regulation B6 to cease to be in pensionable employment, then there had to be a qualifying period of not less than 5 years before he could make another election under regulation B7. Regulation 3 of these Regulations removes the requirement for a qualifying period.

Regulations 4, 5 and 17(3) remove references to Method D which is now obsolete as a means of paying additional contributions.

Regulations 6(a), 14, 17(1) and 17(2) correct minor errors found in the principal Regulations, and regulation 16 replaces a reference to community charges with a reference to council tax.

Regulation 6(b) removes one of the options given to scheme members in respect of the repayment to them of family benefit contributions.

Regulation 7 provides that a person who is paying additional contributions under regulation C8 or C8A of the principal Regulations (“current added years”) is eligible to repay previously withdrawn contributions.

Regulation 8 amends the formula for calculating the reckonable service of part-time teachers, so as to found on hours worked. The regulation also makes specific provision for leap years in the calculation of reckonable service.

Regulation 9 provides that the abatement of retirement pension during further employment is calculated in the same way in all cases to which regulation E15 of the principal Regulations applies, instead of having separate provision for employment which is not regular. This provision has retrospective effect from 1st April 1994. Retrospection is authorised by section 12(1) of the Superannuation Act 1972.

Regulations 10 and 11 provide for death gratuities and deficiency grants to be paid first to the person nominated by the deceased and, only in the absence of such a nomination, to the persons previously specified in regulations E19 and E20 of the principal Regulations.

Regulation 12 places a limitation in the definition of “child” in E21(6)(b) of the principal Regulations. This affects persons of 17 years or more who have had a break of more than 18 months before (or during) a course of education or training. Regulation 20 makes transitional provision regarding regulation 12.

Regulation 13 allows an unmarried person to nominate a beneficiary to receive a pension under regulations E23 to E28 of the principal Regulations, even if he is no longer in pensionable service, provided no retirement benefits have yet been paid.

Regulation 15 provides that regulation H1 of the principal Regulations applies only where the employment at a reduced rate of contributable salary is in a different post. It also provides that, for the purposes of regulation H1, transfer under statute to the employment of a board of management of a self-governing school or further education college is not regarded as a change of employment.

Regulation 18 amends the date on which an election to pay contributions under Method 1 at a higher rate takes effect.

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Regulation 19 provides that where part of the retirement pension is allocated to the provision of an alternative benefit under regulation E12 of the principal Regulations, the retirement pension which remains must not be less than the guaranteed minimum.

Regulation 21 confers a right for a beneficiary to opt that an amendment made by these Regulations shall not apply to him in certain circumstances where he is adversely affected by the amendment.