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STATUTORY INSTRUMENTS

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**1997 No. 676 (S.46)**

**EDUCATION, SCOTLAND**

**The Teachers' Superannuation (Scotland)  
Amendment Regulations 1997**

<i>Made</i>	- - - -	<i>5th March 1997</i>
<i>Laid before Parliament</i>		<i>11th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972<sup>(1)</sup> 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 the Regulations as appear to him to be appropriate in accordance with section 9(5) of that Act, and with the consent of the Treasury<sup>(2)</sup>, hereby makes the following Regulations:

**Citation, commencement and effect, and interpretation**

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Scotland) Amendment Regulations 1997.

(2) These Regulations shall come into force on 1st April 1997 and shall have effect—

- (a) for the purposes of regulation 28, as from 1st September 1996; and
- (b) for all other purposes, as from the date of coming into force of these Regulations.

(3) In these Regulations, “the 1992 Regulations” means the Teachers' Superannuation (Scotland) Regulations 1992<sup>(3)</sup>.

**Amendment of 1992 Regulations**

2. The 1992 Regulations shall be amended in accordance with the following provisions of these Regulations.

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(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) See S.I. 1981/1670.  
(3) S.I. 1992/280; amended by S.I. 1992/1025 and 1597, 1993/490 and 2513, 1994/1715 and 2699 and 1995/840 and 1670.

### **Accepted school**

3. In regulation B4(2)(a)(ii) for “by regulation G5 and G6 (payment of employers' contributions)” there shall be substituted “under Part G to pay employers' contributions”.

### **Exclusion from pensionable employment**

4. In regulation B5 there shall be added at the end the following paragraph:–

“(5) A person is not in pensionable employment in respect of any employment which commenced on or after 1st April 1997 while he is entitled to be paid a teacher’s pension, including cases where the annual rate of the pension has been reduced to zero in accordance with regulation E15 (abatement of retirement pension).”.

### **Additional contributions to purchase past added years**

5. In regulation C3–

(a) after paragraph (2) there shall be inserted the following paragraph:–

“(2A) Subject to paragraphs (6), (7), (9) and (12A) the employer of a person to whom this regulation applies may elect to pay additional contributions in respect of the person in accordance with Part II of Schedule 4 (“Method B”).”;

(b) paragraph (4) shall be deleted;

(c) in paragraph (12) for “under this regulation” there shall be substituted “under paragraph (2)”;

(d) after paragraph (12) there shall be inserted the following paragraph:–

“(12A) An election under paragraph (2A) must be made by giving written notice to the Secretary of State which–

(a) is to specify the person in respect of whom it is made, and

(b) is to specify the past period.”.

### **Additional contributions to purchase current added years**

6. In regulation C8 for paragraph (7) there shall be substituted the following paragraph:–

“(7) For the purposes of paragraph (6)–

(a) the notional salary is an amount notified by the former employer or, where no such notification is given, estimated by the Secretary of State as being what the person’s contributable salary would have been if pensionable employment had not ceased and the person had continued to be employed in the same post and on the same terms; and

(b) the percentage is (A+B) where A is the percentage specified in regulation C2 (teachers' ordinary contributions) and B is the required percentage which is to be applied to contributable salary to determine employers' contributions under Part G.”.

### **Return of contributions**

7. In regulation C10–

(a) paragraph (1)(a) and the words “in any other case” in paragraph (1)(b) shall be deleted;

(b) for paragraph (2) there shall be substituted the following paragraph:–

“(2) The relevant period is the period of one month beginning when he ceased to be in pensionable employment.”.

### **Calculation for the purposes of regulation C10**

8. In regulation C11(3)(a)(i) for “G2” there shall be substituted “G4, or any corresponding provision previously in force,”.

### **Repayment of returned contributions**

9. In regulation C13–

- (a) in paragraph (3) the words “of equal amounts” shall be deleted;
- (b) after paragraph (3) there shall be inserted the following paragraph:–

“(3A) Instalments are of equal amounts unless in any year the payment of an instalment of an amount equal to that paid in previous years would exceed the limit specified in paragraph (4) and in that event the instalments (and the corresponding period over which they are payable) shall be recalculated so that they do not exceed that limit.”.

- (c) for paragraph (4) there shall be substituted the following paragraph:–

“(4) The annual amount of instalments paid under paragraph (3) is to be such that  
**(A+B)**

does not exceed 15% of the annual rate of the person's contributable salary in the year where–

A is the annual amount of the instalments; and

B is the annual amount of other contributions paid under Part C (except any treated for the purposes of regulation G4 as employer's contributions) or towards the provision of a pension otherwise than under these Regulations.”.

### **Past added years for which additional contributions have been paid**

10. In regulation D3–

- (a) in paragraph (1)–
  - (i) the word “or” shall be deleted from the end of sub-paragraph (a) and inserted at the end of sub-paragraph (b); and
  - (ii) after sub-paragraph (b) there shall be inserted the following sub-paragraph:–

“(c) in respect of whom payment of additional contributions for a past period in accordance with Part II of Schedule 4 has been made,”.

- (b) after paragraph (1) there shall be inserted the following paragraphs:–

“(1A) For the purposes of paragraph (1) a person who has at any time during the contribution period been in part-time pensionable employment shall not be treated as having completed the payment of additional contributions in accordance with Part I of Schedule 4 unless (in addition to the payments in accordance with that Part) he pays a lump sum determined in accordance with paragraph (1B).

(1B) The lump sum referred to in paragraph (1A) is such sum as would be payable under Part II of Schedule 4 in order to count as reckonable service a period equivalent to the difference between the length of reckonable service which arises from the contribution period and the length of such service if the person had been in full-time pensionable employment throughout the contribution period.

(1C) In paragraphs (1A) and (1B) “the contribution period” means the period during which additional contributions in accordance with Part I of Schedule 4 were paid.”.

### **Entitlement to payment of retiring allowances**

**11.—(1)** In regulation E5—

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

- “(e) (i) has not attained the age of 60,  
(ii) has ceased after 31st March 1972 to be in pensionable employment,  
(iii) has become incapacitated,  
(iv) in the case of a teacher registered or formerly registered with the General Teaching Council for Scotland and who has ceased after 31st March 1997 to be in pensionable employment, has not had his name removed from the Council’s register following a direction by the Council’s Disciplinary Committee and is not under an investigation which might result in such removal, and  
(v) in any other case, where he has ceased after 31st March 1997 to be in pensionable employment, and has not ceased to be in pensionable employment as a result of dismissal on grounds of misconduct.”;

(b) for sub-paragraph (1)(f)(iii) there shall be substituted the following:—

- “(iii) has ceased after attaining that age to be in pensionable employment, or in excluded employment, or in employment which would have been pensionable employment had an election been made under regulation B2 (part-time service), and his employer has certified in writing to the Secretary of State that his employment has been terminated as a result of his redundancy or in the interests of the efficient exercise of the employer’s functions; and  
(iv) has not received, and is not to receive, compensation under Part IIIA of the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996(4) (discretionary compensation for termination) and his employer has agreed that he should become entitled to retirement allowances under this paragraph.”.

### **Actuarial reduction of pension on early retirement**

**12.** In regulation E6 (amount of retirement pension)—

(a) in paragraph (1) for “and (3)” there shall be substituted “to (4)”;

(b) there shall be added at the end the following paragraphs:—

“(4) Where this paragraph applies the annual rate of a teacher’s retirement pension shall be the annual rate, calculated in accordance with the foregoing provisions of this regulation, of the retirement pension to which he would be entitled apart from this paragraph and ignoring the effect of regulation E11 (modification for national insurance) multiplied by the appropriate factor.

- (a) (5) Subject to sub-paragraph (b), paragraph (4) applies where a teacher is entitled to payment of retiring allowances under regulation E5(1)(f) and ceased to be in pensionable employment or in excluded employment on or after 1st September 1997;

(b) paragraph (4) shall not apply where notice to terminate the teacher's employment was given or his resignation was tendered on or before 22nd October 1996<sup>(5)</sup>.

(6) For the avoidance of doubt, references in regulations E8 to E10 to "retirement allowances" and "retirement pension" are references to such benefits as calculated before any actuarial reduction required by paragraph (4)."

### **Actuarial reduction of lump sum on early retirement**

**13.** In regulation E7 (amount of retirement lump sum)–

- (a) in paragraph (1) for "paragraph (2)" there shall be substituted "paragraphs (2) and (3)"; and
- (b) there shall be added at the end the following paragraphs:–

"(3) Where this paragraph applies the amount of a teacher's retirement lump sum shall be the amount, calculated in accordance with the foregoing provisions of this regulation, of the lump sum to which he would be entitled apart from this paragraph multiplied by the appropriate factor.

(a) (4) Subject to sub-paragraph (b), paragraph (3) applies where a teacher is entitled to payment of retiring allowances under regulation E5(1)(f) and ceased to be in pensionable employment or in excluded employment on or after 1st September 1997;

(b) paragraph (3) shall not apply where notice to terminate the teacher's employment was given or his resignation was tendered on or before 22nd October 1996.

(5) For the avoidance of doubt, references in regulations E8 and E9 to "retirement allowances" and "retirement lump sum" are references to such benefits as calculated before any actuarial reduction required by paragraph (3)."

### **Avoidance of duplicate pensions**

**14.** In regulation E10(2) there shall be added at the end–

"or where the other pension is payable under regulation 16C of the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996."

### **Modification for national insurance**

**15.** In regulation E11 there shall be added at the end "including retirement pensions that have been actuarially reduced under regulation E6(4)".

### **Suspension and resumption of incapacity pensions**

**16.** In regulation E14, for paragraph (1) there shall be substituted–

"(1) This regulation applies where a teacher who became entitled to payment of a pension on or before 31st March 1997 by virtue of regulation E5(1)(e) ceases to be incapacitated."

### **Withdrawal of incapacity pensions**

**17.** After regulation E14, there shall be inserted the following regulation:–

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(5) This is the date on which the Secretary of State began his consultation on the proposals now enacted.

“**E14A.** Where a teacher who becomes entitled on or after 1st April 1997 to payment of a pension under regulation E5(1)(e) re-enters pensionable employment, or employment which would be pensionable but for an election under regulation B6 (membership) or the lack of an election under regulation B2 (part-time service), the teacher shall cease to be entitled to that pension; and if the teacher subsequently becomes entitled to benefits under these Regulations any reckonable service which was taken into account in calculating the pension under regulation E5(1)(e) shall be taken into account in calculating those benefits.”.

### **Abatement of retirement pension**

**18.** In regulation E15–

- (a) in paragraph (1)(a) there shall be inserted after the words “but for his having made an election under regulation B6” the words “or but for regulation B5(5)”;
- (b) in paragraph (2)(b) there shall be inserted after “case” the words “and subject to paragraph (7)”;
- (c) in paragraph (4) in the definition of “B” after “pension” there shall be inserted the words “disregarding any actuarial reduction required by regulation E6(4) (actuarial reduction of pension on early retirement)”;
- (d) there shall be added at the end the following paragraph:–

“(7) Where regulation E6(4) applies (actuarial reduction of pension on early retirement) the amount (if any) by which the annual rate of the pension is to be reduced under paragraph (2)(b) shall be the amount (if any) referred to in that sub-paragraph multiplied by the appropriate factor.”.

### **Actuarial reduction of retirement allowances on cessation of further employment**

**19.** In regulation E16 (retirement allowances on cessation of further employment) at the end there shall be inserted the following paragraph:–

“(10) Where a person ceases to be in further employment on or after 1st September 1997 and is entitled to payment of retiring allowances under regulation E5(1)(f)–

- (a) regulation E6(4) shall also apply to that person and to his retirement pension under paragraph (2)(b) or (3)(b) or to his additional retirement pension under paragraph (4); and
- (b) regulation E7(3) shall also apply to that person and to his retirement lump sum under paragraph (2)(b) or (3)(b) or to his additional retirement lump sum under paragraph (4).”.

### **Commutation: exceptional circumstances of ill-health**

**20.** After regulation E18 there shall be inserted the following regulation:–

#### **“Commutation: exceptional circumstances of ill-health**

**E18A.**—(1) Where at the time when a person first becomes entitled to a retirement pension by virtue of regulation E5(1)(e) there are exceptional circumstances of serious ill-health affecting that person the Secretary of State may discharge his liability in respect of so much of that pension as exceeds the person’s guaranteed minimum by payment of a lump sum calculated in accordance with paragraph (2).

(2) The lump sum is an amount equal to five times the amount by which the annual rate of the retirement pension which would otherwise be payable to the person exceeds the amount of his guaranteed minimum.”.

### **Death gratuities**

**21.** In regulation E19–

- (a) at the end of paragraph (1)(c) for “,” there shall be substituted “; or”;
- (b) after paragraph (1)(c) there shall be inserted–
  - “(d) had, not more than 2 months earlier, ceased to be in pensionable employment and had not at that time been entitled to payment of retiring allowances,”;
- (c) at the end of paragraph (2)(b) there shall be added “or, in the case of a death occurring on or after 1st April 1998, twice his pensionable salary”; and
- (d) in paragraph (7) for “person” there shall be substituted “individual”.

### **Deficiency grants**

**22.** In regulation E20–

- (a) in each of paragraphs (2) and (3) before the words “a grant” there shall be inserted the words “subject to paragraph (4A)”;
- (b) for paragraph (4) there shall be substituted–
  - “(4) For the purposes of this regulation any amount by which a pension was reduced under regulation E6(4) (actuarial reduction of pension on early retirement) or any part of a pension allocated under regulation E12, or any amount deducted from the retirement lump sum (including any actuarial reduction under regulation E7(3) (actuarial reduction of lump sum on early retirement) shall be treated as having been paid.”;
- (c) after paragraph (4) there shall be added the following paragraph:–
  - “(4A) Where regulation E6(4) applies a deficiency grant may be paid equal only to the deficiency referred to in paragraph (2) or (3), as the case may be, multiplied by the appropriate factor.”; and
- (d) in paragraph (6) for “person” there shall be substituted “individual”.

### **Entitlement to short-term family benefits**

**23.** In regulation E23 for paragraph (2) there shall be substituted the following paragraph:–

- “(2) The short-term pension shall be payable–
  - (a) subject to paragraph (4)(a) to any surviving spouse, or, if a nomination under regulation E22 had effect at the time of his death, to the nominated beneficiary; and
  - (b) if the deceased is survived by a child or children of his, to or for the benefit of the child or, as the case may be, the children jointly.”.

### **Amount and duration of short-term family benefits**

**24.** In regulation E24–

- (a) in paragraph (1) for “paragraph (2)” there shall be substituted “paragraphs (2) and (4)”;
- (b) for paragraph (3) there shall be substituted–

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“(3) The duration of the short-term pension payable shall be determined from the table below, and in that table “adult pension” means a short-term pension payable to the spouse or nominated beneficiary.

<i>Category</i>	<i>Person falling within regulation (2) E23</i>	<i>Duration of pension (months)</i>
1.	Spouse or nominated beneficiary	3
2.	One child or more where an adult pension is payable	3
3	One child or more where no adult pension is payable	6”

(c) for paragraph (4) there shall be substituted—

“(4) where regulation E6(4) applies (actuarial reduction of pension on early retirement) the annual rate of a short-term pension payable under regulation E23 shall be the annual rate calculated in accordance with paragraph (1) or (2) multiplied by the appropriate factor.”.

#### **Interest on late payment of certain benefits**

25. After regulation E31 there shall be inserted the following regulation:—

##### **“Interest on late payment of certain benefits**

**E31A.**—(1) Where all or any part of the benefits payable under this Part other than a pension payable under regulation E23 is not paid within one month of the due date (other than in cases where the beneficiary has not accepted payment or has knowingly by his actions made payment impossible or impractical), the Secretary of State shall pay to the person to whom the benefit is payable interest on the amount remaining unpaid calculated at the appropriate rate on a day to day basis from the due date to the date of payment, and compounded with three-monthly rests.

(2) For the purposes of paragraph (1) the due date, where a benefit consists of a single payment, is—

- (a) the date on which the person becomes entitled to the benefit, where the benefit consists of a single payment other than a death gratuity under regulation E19 or a deficiency grant under regulation E20; or
- (b) the day after the date on which the Secretary of State has become satisfied that the benefit may be paid under regulation E19 or E20, where the benefit is payable under either of those regulations.

(3) For the purposes of paragraph (1) the due date, in a case where a benefit does not consist of a single payment, is—

- (a) in the case of a family benefit, the last day of the month in which entitlement to the benefit took effect; and
- (b) in any other case, the birth date of the person immediately following the date on which the person’s entitlement to benefit took effect.

(4) If a person was born on the 1st of a month, his birth date in any month is the 1st, and so on; in any month in which the date arrived at in that way does not occur, his birth date is the last day of the month.

(5) For the purposes of paragraph (1) “the appropriate rate” is one percent above the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence.

(6) In paragraph (4) above “the reference banks” means the seven largest institutions for the time being which—

- (a) are authorised by the Bank of England under the Banking Act 1987<sup>(6)</sup>;
- (b) are incorporated in and carrying on within the United Kingdom a deposit-taking business (as defined in section 6, but subject to any order under section 7, of that Act); and
- (c) quote a base rate in sterling.”.

### **Receipt of transfer values**

26. In regulation F3—

- (a) in paragraph (2), for “(3) to (5)” there shall be substituted “(4) and (5)”; and
- (b) paragraph (3) shall be deleted.

### **Scheme finance**

27. For Part G there shall be substituted the Part G set out in Schedule 1 to these Regulations.

### **Modified application in respect of certain NHS transferees**

28.—(1) There shall be added at the end of regulation H2 the following paragraph—

“(3) In relation to certain persons who were formerly members of the National Health Service Pension Scheme, these Regulations have effect with the modifications set out in Part V of Schedule 9.”.

(2) There shall be inserted at the end of Schedule 9 the new Part set out in Schedule 2 to these Regulations.

### **Determination of questions**

29. In regulation H6 the words “and a determination by him is final” shall be deleted.

### **Glossary of expressions**

30.—(1) In Schedule 1—

- (a) after the entry relating to the expression “Adviser” there shall be inserted the following entry:—

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“Appropriate factor

The factor being—

- (a) in relation to a retirement pension and to the retirement benefits referred to in regulations E20 and E24, the factor set out in Table I in Schedule 9A or, in the case of a person to whom paragraph 23 of Part V of Schedule 9

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- applies (certain nurses, physiotherapists, midwives, health visitors and mental health officers), set out in Table III in Schedule 9A, and
- (b) in relation to a retirement lump sum, the factor set out in Table II in Schedule 9A or, in the case of a person to whom paragraph 23 of Part V of Schedule 9 applies (certain nurses, physiotherapists, midwives, health visitors and mental health officers), set out in Table IV in Schedule 9A,
- corresponding to the age of that person in complete years and months when he became entitled to that pension (including the retire ment benefits referred to in (a) above) or lump sum, as the case may be.”;

- (b) after the entry relating to the expression “Child” there shall be inserted the following entry:–

“Club scheme	A statutory scheme or a scheme for the time being treated, with the agreement of the Treasury, as a statutory scheme.”;
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- (c) for paragraph (a) of the definition of “Incapacitated” there shall be substituted the following:–

- “(a) in the case of a teacher, while in the opinion of the Secretary of State the teacher is incapable by reason of infirmity of mind or body of serving efficiently as such, and despite appropriate medical treatment is likely permanently to be so, and”;

- (d) after the entry relating to the expression “The 1977 Regulations” there shall be inserted the following entry:–

“The Amending Regulations	The Teachers' Superannuation (Scotland) Amendment Regulations 1997.”
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(2) The amendment to the definition of “incapacitated” shall not apply for the purpose of determining whether a teacher has become incapacitated where the application for payment of benefit has been received by the Secretary of State before 1st April 1997.

**Additional contributions to purchase past added years**

**31. In Schedule 4–**

- (a) in paragraph 2(2), for “G2” there shall be substituted “G4”;
- (b) in paragraph 5(1)(a) the words “full-time” shall be deleted;
- (c) in paragraph 5(2) for the words from “elect to complete payment” to the end of the sub-paragraph there shall be substituted the words “make an election in accordance with sub-paragraph (2A) or, as the case may be, (5A)”;
- (d) after paragraph 5(2) there shall be inserted the following sub-paragraphs:–

“(2A) An election under this sub-paragraph may be made where the person has been in full-time pensionable employment throughout the contribution period.

(2B) An election under sub-paragraph (2A) is an election to complete the payment of additional contributions (so that regulation D3(1)(b) will apply instead of regulation D3(2)) by making a lump sum payment the amount of which shall be determined in accordance with sub-paragraph (3), (4) or (5) as the case may be.”;

(e) After paragraph 5(5) there shall be inserted the following sub-paragraphs:–

“(5A) An election under this sub-paragraph may be made where the person has been in part-time pensionable employment at any time during the contribution period.

(5B) An election under sub-paragraph (5A) may be either–

- (a) an election to make a lump sum payment such that the person will be entitled to count as reckonable service the number of years which he would have been entitled to count if he had been in full-time pensionable employment throughout such of the contribution period as had elapsed before he ceased to be in pensionable employment (so that regulation D3(2) and paragraph 1 of Schedule 7 will apply accordingly); or
- (b) an election to make a lump sum payment to complete payment of additional contributions as if he had been in full-time pensionable employment from the date on which he ceased to be in pensionable employment to the end of the contribution period (so that regulation D3(2) and paragraph 1 of Schedule 7 will apply accordingly); or
- (c) an election to make a lump sum payment to complete payment of additional contributions as if he had been in full-time pensionable employment throughout the contribution period (so that regulation D3(1)(b) will apply instead of regulation D3(2)).

(5C) Where the election is made for the purpose of head (a) of sub-paragraph (5B) the amount of the lump sum payment shall be such amount as would be payable under Part II of this Schedule in order to count as reckonable service the difference between the length of reckonable service arising from such of the contribution periods as had elapsed before the person ceased to be in pensionable employment and the length of such service if the person had been in full-time pensionable employment throughout that period.

(5D) Where an election is made for the purpose of head (b) of sub-paragraph (5B) the amount of the lump sum payment is one of the following amounts as appropriate:–

- (a) the amount referred to in sub-paragraph (3) on the assumption that the person would have been in full-time pensionable employment for the remainder of the contribution period;
- (b) the amount referred to in sub-paragraph (4) on the assumption that the person would have been in full-time employment during such part of the contribution period as would have fallen after he attained the age of 60;
- (c) the amount referred to in sub-paragraph (5) modified (in a case where the person was employed part-time immediately before he ceased to be in pensionable employment) such that in place of the definition of E there is substituted the following definition:–  
“E is the amount of the additional contributions for one year at the rate at which they would have been last payable on the assumption that the person would have been in full-time pensionable employment.”.

(5E) Where an election is made for the purpose of head (c) of sub-paragraph (5B) the amount of the lump sum payment is the aggregate of the amounts referred to in sub-paragraphs (5C) and (5D).

(5F) An election under sub-paragraph (5A) shall state whether it is an election for the purpose of head (a), (b) or (c) of sub-paragraph (5B).”; and

(f) in paragraph 13(4), for “G2” there shall be substituted “G4”.

### **Additional contributions to purchase added years under earlier provisions**

**32.** In paragraph 6 of Schedule 5–

- (a) in sub-paragraph (1) the words “Subject to sub-paragraph (2)” shall be deleted; and
- (b) sub-paragraph (2) shall be deleted.

### **Family benefits**

**33.** In paragraph 10 of Schedule 6–

(a) after sub-paragraph (1) there shall be inserted the following sub-paragraph:–

“(1A) Where a woman’s pensionable employment is part-time the reference in sub-paragraph (1)(d) to the rate at which contributions are to be paid is a reference to the rate as a percentage of the woman’s full-time equivalent salary.”; and

(b) sub-paragraph (7)(b) shall be deleted.

### **Incomplete payment of additional contributions**

**34.** In Schedule 7–

- (a) in paragraph 1(1) the words “Subject to sub-paragraph (8),” and “full-time” shall be deleted;
- (b) in paragraph 1(3) for “C is so much of the contribution period” there shall be substituted “C is the period which the person is entitled to count as reckonable service (calculated, as appropriate, in accordance with the formula in regulation D1(3)) which arises from the additional contributions paid during so much of the contribution period”;
- (c) in paragraph 1(5)(b)(iii) for “as C, of so much of the part of the shortened contribution period” there shall be substituted “as C, of the period which the person is entitled to count as reckonable service (calculated, as appropriate in accordance with the formula in regulation D1(3)) which arises from the additional contributions paid during the shortened contribution period”;
- (d) paragraph 1(8) shall be deleted;
- (e) after paragraph 1 there shall be inserted the following paragraphs:–

“**1A.**—(1) This paragraph applies where a person paying additional contributions to purchase past added years in accordance with Part I of Schedule 4 revokes his election in accordance with regulation C3(13).

(2) In this paragraph A is the past period and B is the contribution period.

(3) Where this paragraph applies, the person is entitled to count as reckonable service–

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

where

C is the period which the person is entitled to count as reckonable service (calculated, as appropriate, in accordance with the formula in regulation D1(3)) which arises from the additional contributions paid during so much of the contribution period as had elapsed by the first day of the month following the date on which the revocation of that election had been accepted in writing by the Secretary of State.

**1B.**—(1) This paragraph applies where a person has paid additional contributions to purchase past added years in accordance with Part I of Schedule 4 for the whole of the period during which they were to be paid (“the contribution period”) and

- (a) has been in part-time employment at some time during the contribution period; but
- (b) has not made a lump sum payment under regulation D3(1B).

(2) In this paragraph A is the past period and B is the contribution period.

(3) Where this paragraph applies, the person is entitled to count as reckonable service—

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

where

C is the period which the person is entitled to count as reckonable service (calculated in accordance with the formula in regulation D1(3)) which arises from the additional contributions paid during the contribution period.

**1C.**—(1) This paragraph applies where a person paying additional contributions to purchase past added years in accordance with Part I of Schedule 4—

- (a) has been in part-time employment at some time during the period during which contributions were to be paid (“the contribution period”);
- (b) ceases to be in pensionable employment before the end of the contribution period; and
- (c) pays a lump sum under paragraph 5(5C) of Schedule 4.

(2) In this paragraph A is the past period and B is the contribution period.

(3) Where this paragraph applies, the person is entitled to count as reckonable service—

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

where

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

**1D.**—(1) This paragraph applies where a person paying additional contributions to purchase past added years in accordance with Part I of Schedule 4—

- (a) has been in part-time employment at some time during the period during which contributions were to be paid (“the contribution period”);
- (b) ceases to be in pensionable employment before the end of the contribution period; and
- (c) pays a lump sum under paragraph 5(5D) of Schedule 4.

(2) In this paragraph A is the past period and B is the contribution period.

(3) Where this paragraph applies, the person is entitled to count as reckonable service—

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

where

C is the aggregate of—

- (a) the period which the person is entitled to count as reckonable service (calculated in accordance with the formula in regulation D1(3)) which arises from the additional contributions paid during so much of the contribution period as had elapsed when the pensionable employment ended; and
- (b) the period from the date when the pensionable employment ended to the end of the contribution period.”;
- (f) in paragraph 2(2) in the definition of B there shall be added at the end—  
“and, in the case of a person in part-time pensionable employment, on the assumption that he had made an election under paragraph 5(5B)(c) of Schedule 4,”;
- (g) paragraph 3 shall be deleted.

#### **Periods making up qualifying period**

**35.** In Schedule 8, after paragraph 24 there shall be inserted the following paragraph:—

“**25.** A period of employment in comparable British service.”.

#### **Actuarial tables for early retirement**

**36.** There shall be inserted after Schedule 9 the Schedule set out in Schedule 3 to these Regulations.

#### **Allocation of part of retirement pension**

**37.** In Schedule 10—

- (a) in paragraph 1(2)(a) after “disregarding” there shall be inserted “any actuarial reduction required by regulation E6(4) (actuarial reduction of pension on early retirement) and”;
- (b) in paragraph 5(1) after head (a) there shall be inserted—  
“(aa) if paragraph 4 of regulation E6 (actuarial reduction of pension on early retirement) applies, the amount or estimated amount of the retirement pension to which he would be entitled if that paragraph did not apply;”; and
- (c) in paragraph 9(1) after “retirement pension” there shall be inserted “disregarding any actuarial reduction required by regulation E6(4) (actuarial reduction of pension on early retirement)”.

#### **Transfer values**

**38.** In Part III of Schedule 11—

- (a) at the end of paragraph 12 there shall be inserted “or paragraph 13A as the case may be”; and
- (b) at the beginning of paragraph 13 there shall be inserted “Except where paragraph 13A applies,”; and
- (c) after paragraph 13 there shall be inserted the following paragraph:—

“**13A.**—(1) This paragraph applies where—

- (a) the previous scheme is a personal pension scheme or an approved superannuation scheme which is not a club scheme and the person has entered pensionable employment after 31st December 1985;
  - (b) the person has made an election under regulation B7 (resumption of pensionable status);
  - (c) the previous election under regulation B6 (election not to be pensionable) was made before 30th June 1994;
  - (d) the person has been in excluded employment between the date of the election under regulation B6 and the date of the election under regulation B7;
  - (e) the person is an individual as is mentioned in section 172(1) of the Pensions Act 1995(7); and
  - (f) the Secretary of State accepts a payment of the amount specified in sub-paragraph (3).
- (2) In this paragraph—
- (i) “the period of original pensionable employment” means the period during which the person was in pensionable employment before he made his election under regulation B6; and
  - (ii) “the period of transferred-out employment” means the period of pensionable employment (if any) in respect of which a transfer value was paid under regulation F1 by virtue of the election under regulation B6.
- (3) The amount referred to in sub-paragraph (1)(f) is
- (A+B)**

where—

A is the transfer value which satisfies paragraph 10 and which would enable the person to count the period of excluded employment as reckonable service as if it had been pensionable employment; and

B is the greater of—

- (a) the transfer value, if any, paid under regulation F1 in respect of the person in consequence of his ceasing to be in pensionable employment by virtue of his election under regulation B6 together with—
  - (i) in a case where a transfer value was paid to the Secretary of State pursuant to regulation F3 within four weeks of the notice under regulation F3(1), an amount, determined actuarially, which represents the income which would have been received had such sum been invested during the period starting at the end of the month in which the transfer value was paid under regulation F1 and ending at the end of the month in which the notice under regulation F3(1) was made; and
  - (ii) in any other case the amount referred to in sub-paragraph (i) above together with a further amount, determined actuarially, which represents the income which would have been received compounded with monthly rests, had such sum been invested during the period starting at the end of the month in which the notice under regulation F3(1) was made and ending at the end of the month in which the transfer value was paid to the Secretary of State; and

- (b) the amount which would be paid as a transfer value under regulation F1 in respect of the person if at the date on which he made the election under regulation B7–
  - (i) he was in pensionable employment and made an election under regulation B6; and
  - (ii) the transfer value was in respect of a period of pensionable employment equal to the period of transferred-out employment.
- (4) Where this paragraph applies the person is entitled to count as reckonable service–
  - (a) the reckonable service arising from the period of original pensionable employment; and
  - (b) such service arising from the period of excluded employment as if it had been pensionable employment.”.

### **Teachers' superannuation account**

**39.** In Schedule 12–

- (a) in paragraph 1(1) for “G2(4)(e)” there shall be substituted “G4(4)(e)”; and
- (b) in paragraph 2(3)–
  - (i) for “G2(1) and (4)(b) to (d)” there shall be substituted “G4(1) and (4)(b) to (d)”; and
  - (ii) for “G3” there shall be substituted “G6”.

### **Transitional provisions**

**40.**—(1) Notwithstanding the amendments to regulations E19(7) and E20(6) of the 1992 Regulations made by regulations 21 and 22 above, where before 1st April 1997 the deceased had nominated a person other than an individual the death gratuity or deficiency grant shall be paid under regulations E19(7) or E20(6) to the person nominated.

(2) The amendments to regulations E23 and E24(3) of the 1992 Regulations made by regulations 23 and 24 above respectively shall not apply in relation to benefits payable in respect of a person who died before 1st April 1997.

### **Right to opt out**

**41.**—(1) This regulation shall apply in the case of any person (“a relevant beneficiary”) to whom any benefit is or may become payable, being a benefit (“a relevant benefit”) being paid or which may become payable under the 1992 Regulations to or in respect of a person who before 1st April 1997–

- (a) ceased to be in pensionable employment; or
- (b) died while still in employment.

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

- (a) would be placed in a worse position than he would have been in if a provision made by these Regulations (“the relevant provision”) had not applied in relation to the relevant benefit, and

(b) so elects, by notice in writing given to the Secretary of State before 1st August 1997, then, in relation to that benefit, the 1992 Regulations shall have effect as if the relevant provision had not been applied to the relevant benefit.

(3) If an election under paragraph (2) is made in relation to a relevant benefit of a person who is in pensionable employment or who subsequently becomes re-employed in pensionable employment–

- (a) the election shall have effect in relation to a relevant benefit only to the extent that it accrues or has accrued by virtue—
- (i) of periods of reckonable service before the cessation referred to in paragraph (1) (or, if there had been more than one cessation, the last of them before 1st April 1997); or
  - (ii) of contributions paid in respect of such periods of reckonable service; and
- (b) in determining entitlement to, or to the amount of, the benefit to that extent he shall be treated as if he had never re-entered pensionable employment again at any time after the cessation referred to in paragraph (1) (but without prejudice to the application of this paragraph),
- and the 1992 Regulations shall apply accordingly.

St Andrew's House,  
Edinburgh  
4th March 1997

*James Douglas-Hamilton*  
Minister of State, Scottish Office

We consent

5th March 1997

*Gyles Brandreth*  
*Roger Knapman*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## SCHEDULE 1

Regulation 27

### “PART G FINANCE

#### General

**G1.**—(1) References in this Part to the “old Part G” or to a numbered regulation prefaced by the word “old” are references to Part G of these Regulations or to a regulation in that Part before the substitution effected by the Amending Regulations.

(2) Old Part G shall remain in force in relation to the accounts prepared or to be prepared by the Secretary of State in relation to financial years commencing before 1st April 1996, to the actuarial inquiry to be made at the end of the financial year ending with 31st March 1996 and the report thereon and subject to the provisions of this Part to the calculation of employers' contributions during the relevant period commencing on 1st April next following the date of the 1996 report.

(3) In this Part references to the 1991, 1996 or 2001 report are references to the report on the actuarial inquiry under regulation 82 of the 1977 Regulations, old regulation G4 or regulation G8 at the end of the financial year ending with 31st March 1991, 1996 or 2001, respectively.

(4) For the purposes of the supplemental inquiry under regulation G2(1) and the subsequent reports no account shall be taken in assessing the scheme liabilities of the increase in death gratuity payable as a result of the amendment to regulation E19(2)(b) by regulation 21 of the Amending Regulations.

(5) In respect of the relevant period next following the date of the 1991 report, the required percentage referred to in old regulation G5(2) shall, in respect of the period 1st April 1997 to 31st August 1997, continue to be calculated on the basis of the percentages specified for the preceding relevant period under old regulations G4(3), (7) and (8).

#### Supplemental actuarial inquiry as at 31st March 1991

**G2.**—(1) The Government Actuary shall make a supplemental actuarial inquiry on the position in relation to the account prepared by the Secretary of State pursuant to regulation 82 of the 1977 Regulations as at the end of the financial year ending with 31st March 1991 (“the financial year in question”).

(2) The Government Actuary shall make a report on the supplemental actuarial inquiry to the Secretary of State who shall lay the report before each House of Parliament. This duty shall be taken to be satisfied if a report in the form required by this regulation has been so made and laid before the date that the Amending Regulations come into force.

(3) The report is to specify the percentage of the contributable salaries of persons entering pensionable employment on the first day of the next financial year at which contributions should be paid, during the period beginning on 1st April 1997 and ending with 31st March next following the date of the 1996 report (“the relevant period”), so as to defray the cost of the payments of the kinds described in regulation G6(a) to (f) and that are likely to be made in respect of them.

(4) The report is to state the amount by which, at the end of the financial year in question, the amount of the notional scheme assets exceeded or fell short of that of the scheme liabilities.

(5) The notional scheme assets are—

- (a) the present value of the employees' contributions receivable after the end of the financial year in question in respect of persons who at the end of that year were or had been in pensionable employment;
- (b) the present value of the employers' contributions in respect of such persons receivable after the end of the financial year in question, except any such supplementary contributions as are mentioned in paragraph (7);
- (c) the present value of the payments that would fall to be credited under regulation G4(4)(d) and (e) to the shadow accounts referred to in regulation G3(2) for subsequent financial years up to and including the financial year ending with 31st March 1996 and to the accounts for financial years ending thereafter;
- (d) the actuarial value at the end of the financial year in question of the balance in the account; and
- (e) the actuarial value of the initial credit referred to in regulation G5(1).

(6) The scheme liabilities are, subject to regulation G1(4), the payments to be made under the 1977 Regulations or these Regulations and in respect of pension increase under the Pensions (Increase) Act 1971(8) after the end of the financial year in question in respect of persons who at the end of that year were or had been in pensionable employment, except payments attributable to service before 1st June 1922.

(7) If the report states that the amount of the scheme liabilities exceeded that of the notional scheme assets, it is to specify a rate at which, during the relevant period, supplementary contributions should be paid by employers of persons in pensionable employment so as to remove the deficiency by 31st March 2006.

(8) The rate referred to in paragraph (7) is to be expressed as a percentage of the contributable salaries from time to time of persons in pensionable employment; the percentage must either be or be a multiple of 0.05.

(9) The report shall specify an amount (referred to in these Regulations as “the supplementary credit”) for the purposes of regulation G5(2) which is the actuarial value equal to two-thirds of the capital value of the difference between

**A and B**

over the period 1st April 1997 to 31st March 2006 where—

A is the required percentage of contributable salary calculated under old regulation G5, and

B is—

$$(C - 6) + D$$

where—

C is the percentage specified for the relevant period under paragraph (3) above, and

D is any percentage specified for the relevant period under paragraphs (7) and (8) above.

(10) In this regulation “employees' contributions” and “employers' contributions” are to be construed in accordance with regulation G4(2) and (3).

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### **Teachers' superannuation account**

**G3.**—(1) The Secretary of State shall keep an account, in such form and prepared in such manner as the Treasury may approve, of all receipts and payments under these Regulations for every financial year.

(2) For the purposes only of the supplemental actuarial inquiry and the alternative actuarial inquiry and the preparation of the account for the financial year commencing 1st April 1996 the Secretary of State shall prepare shadow accounts substantially in that form for each financial year commencing in the period 1st April 1991 to 1st April 1995.

(3) References in regulations G4 and G6 to the account are, where the Secretary of State prepares a shadow account in respect of that financial year, references to that shadow account.

### **Receipts, etc., to be credited**

**G4.**—(1) Employees' and employers' contributions during the financial year shall be credited to the account.

(2) Employees' contributions comprise—

- (a) all contributions payable under regulations C2(1), C3, C4, C5, C7 and C9;
- (b) so much of any additional contributions payable under regulation C8 as would have been payable under regulation C2(1) if pensionable employment had continued; and
- (c) all amounts payable under regulation C13 (repayment of returned contributions).

(3) Employers' contributions comprise—

- (a) the contributions payable under old regulation G5 or regulation G9; and
- (b) so much of any additional contributions payable under regulation C8 as would have been payable under old regulation G5 or regulation G9 if pensionable employment had continued.

(4) There shall also be credited to the account—

- (a) the closing balance in the account for the preceding financial year;
- (b) all transfer values under regulation F3 and additional transfer values under regulation D5 (war service) received during the financial year;
- (c) all contributions equivalent premiums refunded, or recovered under section 61 of the Pension Schemes Act 1993<sup>(9)</sup>, during the financial year;
- (d) any interest and other payments under these Regulations received during the financial year; and
- (e) the notional investment income for the financial year on the balance in the account.

(5) For the purposes of paragraph (4)(e) the notional investment income is an amount determined by the Government Actuary and derived by multiplying the balance on the account from time to time by the estimated percentage return (calculated over such period as the Government Actuary determines) on the total invested assets of relevant pension funds in the United Kingdom; and “relevant pension funds” means pension funds in excess of £1,000 million or such other sum as the Secretary of State may from time to time determine:

Provided that in determining such an amount the Government Actuary shall have regard to such information relating to such return on such assets as may be available to him from any organisation in the United Kingdom, designated by the Secretary of State, which compiles and published statistics relating to the assets of such funds.

<sup>(9)</sup> 1993 c. 48. del 48141,48156

(6) For the purpose of the application of this regulation to the shadow account for the financial year beginning on 1st April 1991 any reference in this regulation to a provision of these Regulations or to things done under these Regulations shall include a reference to the corresponding provision of the 1977 Regulations or, as the case may be, things done under the 1977 Regulations.

#### **Initial and supplementary credits as at 1st April 1991**

**G5.**—(1) There is to be credited to the shadow account as at 1st April 1991 an amount (referred to in these Regulations as “the initial credit”) which is the market value, determined by the Government Actuary, of assets equivalent to the actuarial value as at 31st March 1991 of the cost of increases payable after 31st March 1991 under the Pensions (Increase) Act 1971 on retirement benefits and family benefits referable to reckonable service up to and including 31st March 1991.

(2) There is to be credited to the shadow account as at 1st April 1991 an amount which is the market value, determined by the Government Actuary, of assets equivalent to the amount of the supplementary credit calculated in accordance with regulation G2(9).

#### **Payments to be debited**

**G6.**—(1) There shall be debited to the account all sums paid during the financial year by way of—

- (a) benefits under Part E, so far as not attributable to service before 1st June 1922;
- (b) payments under paragraph 11 of Schedule 9 (equivalent pension benefits);
- (c) return of contributions (including interest) under regulations C10 and C12;
- (d) transfer values under regulation F1 and additional transfer values under regulation F2 (war service);
- (e) contributions equivalent premiums; and
- (f) increases payable under the Pensions (Increase) Act 1971.

(2) For the purpose of the application of this regulation to the shadow account for the financial year beginning on 1st April 1991 any reference in this regulation to a provision of these Regulations or to things done under these Regulations shall include a reference to the corresponding provision of the 1977 Regulations or, as the case may be, things done under the 1977 Regulations.

#### **Alternative actuarial inquiry as at 31st March 1996**

**G7.**—(1) The Government Actuary shall make an alternative actuarial inquiry reporting on the position in relation to the shadow account as at the end of the financial year ending with 31st March 1996 (“the financial year in question”).

(2) The Government Actuary shall make a report on the alternative inquiry as soon as practicable after 1st April 1997 to the Secretary of State who shall lay the report before each House of Parliament.

(3) The report is to specify the percentage of the contributable salaries of persons entering pensionable employment on the first day of the next financial year at which contributions should be paid, during the period beginning on 1st April next follow the date of the report and ending with 31st March next following the date of the 2001 report (“the relevant period”), so as to defray the cost of the payments of the kinds described in regulation G6(a) to (f) that are likely to be made.

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(4) The report is to state the amount by which, at the end of the financial year in question, the amount of the notional scheme assets exceeded or fell short of that of the scheme liabilities.

(5) The notional scheme assets are—

- (a) the value of the employees' contributions receivable after the end of the financial year in question in respect of persons who at the end of that year were or had been in pensionable employment;
- (b) the value of the employers' contributions in respect of such persons receivable after the end of the financial year in question, except any such supplementary contributions as are mentioned in paragraph (7);
- (c) the value of the payments that would fall to be credited under regulation G4(4)(d) and (e) to the accounts for subsequent financial years; and
- (d) the actuarial value at the end of the financial year in question of the balance in the shadow account.

(6) The scheme liabilities are the payments to be made under these Regulations and in respect of pension increase under the Pensions (Increase) Act 1971 after the end of the financial year in question in respect of persons who at the end of that year were or had been in pensionable employment, except payments attributable to service before 1st June 1922.

(7) If the report states that the amount of the scheme liabilities exceeded that of the notional scheme assets, it is to specify a rate at which, during the relevant period, supplementary contributions should be paid by employers of persons in pensionable employment so as to remove the deficiency within the period of 15 years beginning on 1st April following the date of the report.

(8) If the report states that the amount of the notional scheme assets exceeded that of the scheme liabilities, it is to specify a rate at which, during the relevant period, the employers of persons in pensionable employment should receive a contribution rebate so as to remove the surplus within the period of 15 years beginning on 1st April following the date of the report.

(9) The rate referred to in paragraphs (7) and (8) is to be expressed as a percentage of the contributable salaries from time to time of persons in pensionable employment; the percentage must either be or be a multiple of 0.05.

(10) For the purposes of the old Part G, the required percentage during the relevant period which commences on 1st April next following the date of the 1996 report shall be whichever is the lesser of

**A and B**

where—

A is the required percentage of contributable salary calculated under old regulation G5, and

B is—

$$(C - G) + (D - E)$$

or, if the result would be less than zero, zero, where,

C is the percentage specified for the relevant period under paragraph (3),

D is any percentage specified for the relevant period under paragraphs (7) and (9),

E is any percentage specified for the relevant period under paragraphs (8) and (9).

(10) In this regulation “employees' contributions” and “employers' contributions” are to be construed in accordance with regulation G4(2) and (3).

### **Actuarial inquiries as at 31st March 2001 and every fifth subsequent financial year**

**G8.**—(1) The Government Actuary shall make an actuarial inquiry reporting on the position in relation to the account as at the end of the financial year ending with 31st March 2001 and at the end of every fifth subsequent financial year (“the financial year in question”).

(2) The Government Actuary shall make a report on the inquiry to the Secretary of State as soon as practicable after the end of the financial year in question and the Secretary of State shall lay the report before each House of Parliament.

(3) The report is to specify the percentage of the contributable salaries of persons entering pensionable employment on the first day of the next financial year at which contributions should be paid, during the period beginning on 1st April next following the date of the report and ending with 31st March next following the date of the next report (“the relevant period”), so as to defray the cost of the payments of the kinds described in regulation G6(a) to (f) that are likely to be made in respect of them.

(4) The report is to state the amount by which, at the end of the financial year in question, the amount of the scheme assets exceeded or fell short of that of the scheme liabilities.

(5) The scheme assets are—

- (a) the employees' contributions receivable after the end of the financial year in question in respect of persons who at the end of that year were or had been in pensionable employment,
- (b) the employers' contributions in respect of such persons receivable after the end of the financial year in question, except any such supplementary contributions as are mentioned in paragraph (7),
- (c) payments that would fall to be credited under regulation G4(4)(d) and (e) to the accounts for subsequent financial years, and
- (d) the actuarial value at the end of the financial year in question of the balance in the account.

(6) The scheme liabilities are the payments to be made under these Regulations and in respect of pension increase under the Pensions (Increase Act) 1971 after the end of the financial year in question in respect of persons who at the end of that year were or had been in pensionable employment, except payments attributable to service before 1st June 1922.

(7) If the report states that the amount of the scheme liabilities exceeded that of the scheme assets, it is to specify a rate at which, during the relevant period, supplementary contributions should be paid by employers of persons in pensionable employment so as to remove the deficiency within the period of 15 years beginning on 1st April following the date of the report.

(8) If the report states that the amount of the scheme assets exceeded that of the scheme liabilities, it is to specify a rate at which, during the relevant period, the employers of persons in pensionable employment should receive a contribution rebate so as to remove the surplus within the period of 15 years beginning on 1st April following the date of the report.

(9) The rate referred to in paragraphs (7) and (8) is to be expressed as a percentage of the contributable salaries from time to time of persons in pensionable employment; the percentage must either be or be a multiple of 0.05.

(10) In this regulation “employees' contributions” and “employers' contributions” are to be construed in accordance with regulation G4(2) and (3).

### **Employers' contributions**

**G9.**—(1) Subject to paragraph (3), the employer of a teacher in pensionable employment shall during every relevant period beginning with the relevant period beginning on the 1st April

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next following the date of the 2001 report pay contributions of the required percentage of the teacher's contributable salary for the time being.

(2) The required percentage is—

$$(A - B) + (C - D)$$

or, if the result would be less than zero, zero, where—

A is the percentage specified for the relevant period under regulation G8(3),

B is any percentage specified for the relevant period under regulation G8(7) and (9), and

C is any percentage specified for the relevant period under regulation G8(8) and (9).

(3) No contributions are to be paid in respect of anyone to whom regulation E30(2)(a) (restriction of reckonable service to 45 years) has become applicable.

(4) For the purposes of this regulation—

(a) an education authority is deemed to be the employer of every person employed in or in connection with a school under their management, other than of a person who is in the employment of an employment business, and

(b) "relevant period" is to be construed in accordance with regulation G8(3).

(5) In this regulation "employment business" has the meaning assigned to it by section 13(3) of the Employment Agencies Act 1973(10).

#### **Payment by employers to Secretary of State**

**G10.**—(1) The employer of a teacher in pensionable employment shall pay to the Secretary of State, within 15 days after the end of each month—

(a) all amounts due from the teacher that are deductible from the teacher's salary under regulation C14(1); and

(b) the contributions payable under old regulation G5 or regulation G9,

in respect of the teacher's contributable salary for that month.

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

(a) all salaries shall be treated as being payable monthly in arrears;

(b) any arrears payable by reason of a retrospective increase in contributable salary shall be treated as having become payable in the month in which they were paid.

(3) If the full amount of any payment required by paragraph (1) is not received by the Secretary of State within 15 days after the end of the month, interest shall be payable by the employer on the amount outstanding at 12% per annum, compounded with monthly rests, from the 16th day to the date of payment; but the Secretary of State may in any particular case waive the payment of interest."

SCHEDULE 2

Regulation 28

NEW PART V IN SCHEDULE 9 TO THE 1992 REGULATIONS

“PART V

PERSONS FORMERLY MEMBERS OF THE  
NATIONAL HEALTH SERVICE PENSION SCHEME

**22.** In this Part—

- (a) “the 1995 Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 1995<sup>(11)</sup>; and
- (b) the expression “member” and “scheme” shall be construed in accordance with the 1995 Regulations.

**23.** This Part applies to persons who—

- (a) immediately before they were in pensionable employment (for the purposes of these Regulations) were employed by a health board in a college of nursing or midwifery and were in pensionable employment within the meaning of the 1995 Regulations; and
- (b) whose employment ceased to be pensionable within the meaning of the 1995 Regulations on 1st September 1996 or, in the case of the Robert Gordon University, 1st December 1996 and became pensionable for the purpose of these Regulations by virtue of a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 1981<sup>(12)</sup>.

**24.—**(1) If a person to whom this Part applies—

- (a) chose, while he was a member of the scheme to increase his right to benefits under the scheme by buying additional service under regulation Q1 of the 1995 Regulations by making regular additional contributions;
- (b) at the time of the relevant transfer referred to in paragraph 23 had not completed the payment of the additional contributions; and
- (c) a transfer value has been accepted by the Secretary of State,

he may complete the payment of such contributions as if Part Q of the 1995 Regulations applied to him and shall accordingly be entitled to count as reckonable service the additional service which would have been bought under Part Q of the 1995 Regulations by the payment of such contributions.

(2) Regulation C14 shall apply to the contributions referred to in this paragraph as if such contributions were paid under regulation C4.

(3) For the purposes of any provision in these Regulations which imposes a maximum on the contributions which a person can make, the contributions referred to in this paragraph shall be treated as paid under Part C.

**25.** Where a person to whom this Part applies—

- (a) was immediately before the relevant transfer referred to in paragraph 23 a person to whom regulation R2 (special provision for certain nurses, physiotherapists,

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<sup>(11)</sup> S.I. 1995/365.

<sup>(12)</sup> S.I. 1981/1794; a relevant amendment to the definition of “undertaking” was made by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 33.

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midwives and health visitors) or R3 (special provision for certain mental health officers) of the 1995 Regulations applied; and

- (b) has continued to be such a person after the said transfer save only for the fact that his employer is not an employing authority within the meaning of the 1995 Regulations,

regulation E5 shall apply in relation to that person as if the references to the age of 60 were references to the age of 55.

26. Where a transfer value has been accepted in respect of a person to whom this Part applies the person is entitled to count as reckonable service the period which, at the time of relevant transfer referred to in paragraph 23, he was entitled to count as pensionable service for the purposes of the 1995 Regulations.”

SCHEDULE 3

Regulation 36

“SCHEDULE 9A

Regulations E6 and E7

**TABLE I**

**EARLY RETIREMENT FACTORS—PENSIONS**

AGE Complete years	Complete Months											
	0	1	2	3	4	5	6	7	8	9	10	11
50	0.561	0.563	0.566	0.568	0.570	0.572	0.575	0.577	0.579	0.581	0.584	0.586
51	0.588	0.591	0.593	0.596	0.598	0.601	0.603	0.606	0.608	0.611	0.613	0.616
52	0.618	0.621	0.624	0.626	0.629	0.632	0.635	0.637	0.640	0.643	0.646	0.648
53	0.651	0.654	0.657	0.660	0.663	0.666	0.669	0.672	0.675	0.678	0.681	0.684
54	0.687	0.690	0.694	0.697	0.701	0.704	0.708	0.711	0.714	0.718	0.721	0.725
55	0.728	0.732	0.736	0.740	0.743	0.747	0.751	0.755	0.759	0.763	0.766	0.770
56	0.774	0.778	0.782	0.786	0.790	0.794	0.799	0.803	0.807	0.811	0.815	0.819
57	0.823	0.828	0.832	0.837	0.841	0.846	0.850	0.855	0.859	0.864	0.868	0.837
58	0.877	0.882	0.887	0.892	0.897	0.902	0.907	0.911	0.916	0.921	0.926	0.931
59	0.936	0.941	0.947	0.952	0.957	0.963	0.968	0.973	0.979	0.984	0.989	0.995

**TABLE II**

**EARLY RETIREMENT FACTORS—LUMP SUMS**

AGE Complete years	Complete Months											
	0	1	2	3	4	5	6	7	8	9	10	11
50	0.695	0.697	0.699	0.702	0.704	0.706	0.708	0.710	0.712	0.715	0.717	0.719

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<i>AGE</i>	<i>Complete Months</i>											
	<i>0</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>
<i>Complete years</i>												
51	0.721	0.723	0.725	0.728	0.730	0.732	0.734	0.736	0.738	0.741	0.743	0.745
52	0.747	0.749	0.752	0.754	0.756	0.759	0.761	0.763	0.766	0.768	0.770	0.773
53	0.775	0.777	0.780	0.782	0.784	0.787	0.789	0.791	0.794	0.796	0.798	0.801
54	0.803	0.806	0.808	0.811	0.813	0.816	0.818	0.821	0.823	0.826	0.828	0.831
55	0.833	0.836	0.838	0.841	0.843	0.846	0.849	0.851	0.854	0.856	0.859	0.861
56	0.864	0.867	0.869	0.872	0.875	0.877	0.880	0.883	0.885	0.888	0.891	0.893
57	0.896	0.899	0.902	0.904	0.907	0.910	0.913	0.915	0.918	0.921	0.924	0.926
58	0.929	0.932	0.935	0.938	0.941	0.944	0.947	0.949	0.952	0.955	0.958	0.961
59	0.964	0.967	0.970	0.973	0.976	0.979	0.982	0.985	0.988	0.991	0.994	0.997

**TABLE III**

**EARLY RETIREMENT FACTORS—PENSIONS: CERTAIN NHS TRANSFEREES**

<i>AGE</i>	<i>Complete Months</i>											
	<i>0</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>
<i>Complete years</i>												
50	0.773	0.776	0.779	0.782	0.785	0.788	0.791	0.794	0.797	0.801	0.804	0.807
51	0.810	0.813	0.816	0.820	0.823	0.826	0.830	0.833	0.837	0.840	0.843	0.847
52	0.850	0.854	0.857	0.861	0.865	0.869	0.872	0.876	0.880	0.883	0.887	0.891
53	0.895	0.899	0.903	0.907	0.911	0.915	0.919	0.924	0.928	0.932	0.936	0.940
54	0.944	0.949	0.954	0.958	0.963	0.967	0.972	0.977	0.981	0.986	0.991	0.995

**TABLE I**

**EARLY RETIREMENT FACTORS—LUMP SUMS:**

**CERTAIN NHS TRANSFEREES**

<i>AGE</i>	<i>Complete Months</i>											
	<i>0</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>
<i>Complete years</i>												
50	0.833	0.835	0.838	0.840	0.843	0.845	0.848	0.851	0.853	0.856	0.858	0.861
51	0.863	0.866	0.869	0.872	0.874	0.877	0.880	0.882	0.885	0.888	0.890	0.893
52	0.896	0.898	0.901	0.904	0.907	0.910	0.912	0.915	0.918	0.921	0.924	0.926
53	0.929	0.932	0.935	0.938	0.941	0.944	0.946	0.949	0.952	0.955	0.958	0.961
54	0.964	0.967	0.970	0.973	0.976	0.979	0.982	0.985	0.988	0.991	0.994	0.997

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make further amendments to the Teachers' Superannuation (Scotland) Regulations 1992 (S.I. 1992/280) ("the 1992 Regulations").

Regulation 3 is consequential on regulation 27, which substitutes a new Part G of the 1992 Regulations.

Regulation 4 amends regulation B5 of the 1992 Regulations to provide that someone may not re-enter the teachers' pension scheme as a contributor while in receipt of a pension under the scheme.

Regulation 5 amends regulation C3 of the 1992 Regulations to enable employers to purchase additional service on behalf of teachers under the scheme's arrangements for purchase of past added years. The amendment also enables part-time teachers to purchase past added years by means of instalments, a facility which was previously available only to full-time teachers.

Regulation 6 amends regulation C8 of the 1992 Regulations to enable the Secretary of State, in the context of the scheme's arrangements for purchase of current added years, to determine the salary that would have been payable during the absence from reckonable service.

Regulation 7 amends regulation C10 of the 1992 Regulations so that a teacher will be entitled to a return of contributions in any case where he leaves the scheme without having qualified for retirement benefits. Also the waiting period following which he is entitled to a return of contributions is reduced from 3 months to 1 month for all teachers.

Regulation 8 is consequential on regulation 27.

Regulation 9 amends regulation C13 of the 1992 Regulations so that where a teacher repays previously withdrawn contributions by instalments these no longer require to be of equal amounts. An amendment is also made to clarify how the 15% contributions limit is applied when a teacher is repaying previously withdrawn contributions by instalments.

Regulation 10 inserts into regulation D3 of the 1992 Regulations the mechanism necessary to enable a part-time teacher who purchases added years by instalments to buy added years equal to those he could have purchased by instalments if he had been a full-time teacher.

Regulation 11 amends regulation E5 of the 1992 Regulations in order to introduce a requirement that entitlement to incapacity benefits is established only if the teacher has not been removed from the register of teachers, and is not being considered for such removal, on the grounds of misconduct, or in the case of an unregistered teacher he has not been dismissed for misconduct. The amendment also makes it clear that part-time teachers who have not elected to join the scheme are able to retire prematurely in the same way as teachers who have opted out of the scheme, provided that all criteria regarding qualification are satisfied. The amendment also provides that a teacher can receive early payment of retiring allowances on grounds of redundancy or the employer's efficiency only with the employer's specific agreement, and not if he is also receiving discretionary compensation for termination.

Regulation 12 amends regulation E6 of the 1992 Regulations so as to provide for the actuarial reduction of the retirement pension payable in cases of early retirement on grounds of redundancy or the employer's efficiency where entitlement arises after 31st August 1997. The percentage reduction applicable to each age is set out in Schedule 3. The actuarial reduction does not apply where notice of termination of employment was given prior to 22nd October 1996 (the date of consultation on the amendment).

Regulation 13 amends regulation E7 of the 1992 Regulations so as to provide for the actuarial reduction of the lump sum in the same circumstances as those where regulation 12 applies.

Regulation 14 amends regulation E10 of the 1992 Regulations to make it clear that mandatory compensation paid by employers in cases of premature retirement is not dealt with as a duplicate pension.

Regulation 15 amends regulation E11 of the 1992 Regulations, as a consequence of regulation 12.

Regulation 16 provides that regulation E14 of the 1992 Regulations, which provides for suspension of incapacity pensions where a teacher ceases to be incapacitated, applies only to those who were entitled to an incapacity pension before 1st April 1997.

Regulation 17 provides that, where a person becomes entitled to an incapacity pension on or after 1st April 1997, if he returns to teaching he will cease to be entitled to the pension.

Regulation 18 amends regulation E15 of the 1992 Regulations, so that the abatement provisions relating to re-employment have applied to them the same actuarial reduction as is applied to the retirement benefits. The amendment also provides that the abatement provisions apply to a person who is not in pensionable employment because he is already in receipt of a pension (in consequence of regulation 4).

Regulation 19 amends regulation E16 of the 1992 Regulations, dealing with retiring allowances on a second or subsequent retirement, so that actuarial reduction applies as under regulations 12 and 13.

Regulation 20 provides that where a teacher is granted ill-health benefits in exceptional circumstances of ill-health the Secretary of State may commute the ill-health pension to a lump sum. He may not, however, commute the guaranteed minimum pension element, nor does the commutation affect the value of the spouse's pension in any way.

Regulation 21 amends regulation E19 of the 1992 Regulations to enable a death gratuity to be paid in certain cases where a teacher dies within 2 months of leaving pensionable employment. The amendment also increases the amount of the death gratuity, in all cases of death occurring after 31st March 1998, and clarifies that the nomination of someone to receive the death gratuity must be of an individual.

Regulation 22 makes amendments to regulation E20 of the 1992 Regulations which are consequential upon regulations 12 and 13. It also clarifies that the nomination of someone to receive the deficiency grant must be of an individual.

Regulations 23 and 24 amend regulations E23 and E24 of the 1992 Regulations to provide for the payment of short-term pensions to children in their own right irrespective of their relationship to any adult who may also be entitled to a short-term pension. Regulation 24 also provides for actuarial reduction where appropriate.

Regulation 25 provides for the payment of interest, where there has been a delay exceeding one month in the payment of pension benefits, other than in cases where the beneficiary has made payment impractical.

Regulation 26 amends regulation F3 of the 1992 Regulations so that application for an inward transfer value does not require to be made within a year of entering pensionable employment.

Regulation 27 and Schedule 1 substitute a new Part G for the existing Part G of the 1992 Regulations, dealing with the finance of the scheme. Under the existing Part G a teachers' superannuation account is kept, showing actual receipts and payments and interest on notional scheme investments. The Government Actuary reports periodically on the finances of the scheme and employers' contributions are fixed accordingly. The new Part G implements changes requiring the cost of pensions increases under the Pensions (Increase) Act 1971 to be debited to the account and allowing notional investment returns to be credited to the account according to the average return of very large pension funds. Although these changes are to be made by reference to the accounts from 1st April 1991, they will affect employers' contributions only from a future date.

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In new Part G, regulation G1 preserves the effect of the old Part G for certain transitional purposes. Regulation G2 provides for the making of a supplemental actuarial inquiry as at 31st March 1991, parallel to the existing actuarial inquiry as at that date, to determine what contributions would in theory be required to finance the scheme on the new basis until the end of the financial year after the report of the 1996 actuarial inquiry. Regulation G3 provides for the continued keeping of teachers' superannuation accounts, and for the preparation of shadow accounts for the financial years beginning 1st April 1991 to 1st April 1995, parallel to the existing accounts for those years, showing receipts and payments on the new basis. Regulation G4 and regulation G6 specify the receipts and payments to be entered into the accounts and shadow accounts. Regulation G5 provides for special credits to the shadow account as at 1st April 1991. Regulation G7 provides for the making of an alternative actuarial inquiry based on the position of the shadow account as at 31st March 1996, parallel to the actuarial inquiry into the actual account as at that date. The report of the alternative actuarial inquiry is to specify the contributions which should be paid, beginning at 1st April following the report, to meet payments on the new basis. As from 1st April following the report, employers' contributions will be determined on this basis. Up to then they will still have been determined on the existing basis under old Part G. Regulation G8 provides for actuarial inquiries in 2001 and each 5 years thereafter, regulation G9 provides for employers' contributions based on the reports of those inquiries and regulation G10 provides for payment by employers to the Secretary of State of any sums due.

Regulation 28 and Schedule 2 provide for the 1992 Regulations to be modified in order to protect the pension rights of former members of the National Health Service Superannuation Scheme who transferred to the teachers' scheme as a consequence of the transfer of responsibility for nursing and midwifery education to educational institutions. Regulation 1 provides for this to have retrospective effect from 1st September 1996. Retrospection is authorised by section 12(1) of the Superannuation Act 1972.

Regulation 29 amends regulation H6 of the 1992 Regulations so that a determination of the Secretary of State is no longer final. This is consequential upon the extended jurisdiction of the Pensions Ombudsman.

Regulation 30 inserts into Schedule 1 to the 1992 Regulations a definition of "Appropriate factor", in the context of the actuarial reduction provisions of regulations 12 and 13. The individual factors, according to age and to whether the person was an NHS employee referred to in regulation 27, are listed in Schedule 3 (which inserts into the 1992 Regulations a new Schedule 9A). Regulation 30 also amends the definition of "incapacitated" in Schedule 1 to the 1992 Regulations, so that entitlement to incapacity retirement benefits is dependent upon an injury or illness being likely to be permanent.

Regulation 31 makes technical amendments to Schedule 4 to the 1992 Regulations to enable the calculation of outstanding contributions where a part-time teacher purchases added years by instalments and does not complete payment. It enables part-time teachers to buy part or all of the remaining past added years by lump sum payment so that the total service purchased is the same as it could have been had they been employed full-time.

Regulation 32 removes a restriction in paragraph 6 of Schedule 5 to the 1992 Regulations, whereby a teacher who was paying additional contributions to buy extra service under the previous "added years" provisions could not make a past added years election without first terminating the old election.

Regulation 33 amends Schedule 6 to the 1992 Regulations, to enable part-time teachers to pay additional contributions by instalments to purchase additional family benefit provision.

Regulation 34 amends Schedule 7 to the 1992 Regulations, to enable the calculation of a "paid up credit" where a part-time teacher has paid added years contributions by instalments and has not completed payment.

Regulation 35 inserts a new provision into Schedule 8 to the 1992 Regulations, to make it clear that teaching service in the British Isles counts for qualification purposes.

Regulation 36 provides for tables of actuarial reductions related to regulations 12 and 13. The tables are in Schedule 3 (which inserts into the 1992 Regulations a new Schedule 9A).

Regulation 37 amends Schedule 10 to the 1992 Regulations so that the amount of retirement pension which may be allocated is not reduced as a consequence of actuarial reduction of that pension.

Regulation 38 amends Schedule 11 to the 1992 Regulations, in order to define the means by which a teacher who has been subject to mis-selling may be re-admitted to the teachers' scheme and reinstate all of his previous teaching service. It defines how a compensation payment is calculated to enable previously transferred-out teaching service, and the period during which he was in opted-out service, to be transferred back into the teachers' scheme.

Regulation 39 is consequential on regulation 27.

Regulation 40 makes transitional provisions, and regulation 41 provides for teachers to elect to disapply any amendment which would place them in a worse position than they would have been in had these amendments not been made.

Any other amendments not specifically mentioned are minor or consequential.