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SCOTTISH STATUTORY INSTRUMENTS

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**2000 No. 444**

**PENSIONS**

**The Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Amendment Regulations 2000**

*Made - - - - 18th December 2000*  
*Laid before the Scottish*  
*Parliament - - - - 20th December 2000*  
*Coming into force - - 1st February 2001*

The Scottish Ministers, 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 them 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 them to be appropriate in accordance with section 9(5) of that Act, and with the consent of the Treasury<sup>(2)</sup>, hereby make the following Regulations:

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

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Amendment Regulations 2000.

(2) These Regulations shall come into force on 1st February 2001 but regulation 7 shall have effect from 1st April 2000.

(3) In these Regulations, “the 1995 Regulations” means the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995<sup>(3)</sup> and any reference to a “regulation” shall be a reference to a regulation of the 1995 Regulations and any reference to “the Schedule” shall be a reference to the Schedule to the 1995 Regulations.

(4) These Regulations extend to Scotland only.

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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. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I.1999/1750).

(2) This function was transferred to the Treasury by the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

(3) S.I. 1995/2814.

## **Amendment of 1995 Regulations**

2. The 1995 Regulations shall be amended in accordance with the following provisions.
3. In regulation 2(3) after the definition of “the Index”, there shall be inserted—

““Investment Linked Pension” means a pension which is linked to the performance of investments after it becomes payable and which is payable from the proceeds of an annuity policy authorised by the Scottish Ministers for the purposes of these Regulations and purchased from an authorised provider selected by them.”.
4. In regulation 5(3)(c)(iii) after the word “question” there shall be inserted—

“, or

(iv) is to be an Investment Linked Pension”.
5. In regulation 7(2) for the words “14 days” there shall be substituted the words “7 days”.
6. In regulation 10—
  - (a) in paragraph (1)—
    - (i) for the words “Where a person who enters pensionable employment has during previous employment paid contributions to—” there shall be substituted “Where a person in pensionable employment has paid contributions to—”; and
    - (ii) the words “within 12 months of entering pensionable employment” shall be omitted.
  - (b) in paragraph (2) for the words “entering pensionable employment” there shall be substituted “in pensionable employment”.
7. In regulation 12—
  - (a) in paragraph (5) for the word “shall” there shall be substituted “may”;
  - (b) in paragraph (5)(d)(iii) after the word “question” there shall be inserted—

“, or

(iv) is to be an Investment Linked Pension”; and
  - (c) for paragraph (8) there shall be substituted the following paragraph—

“(8) Subject to paragraphs (9) and (10), if the participator has not made an election under paragraph (5) before he attains the age of 75, the Scottish Ministers may on or after his attaining that age realise the investments made under regulation 9(1) and 10(2) and apply the amount obtained to the purchase of a pension policy from the insurance company referred to in regulation 9 to provide such benefits as appear to them to be suitable.”.
8. In paragraph 3 of the Schedule—
  - (a) after sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) In calculating for the purposes of this paragraph the average of the participator’s salary, where the participator has spent any of the period mentioned in paragraph 3(1) in part-time employment, the salary for that period shall be the amount which it would have been if the employment had been full-time during that period.”.
  - (b) in sub-paragraph (2) there shall be inserted after the words “In this paragraph” “subject to sub-paragraph (2A)”.
  - (c) after sub-paragraph (2) there shall be inserted—

“(2A) In calculating for the purposes of this paragraph the adjusted salary for a participator who has spent any of the periods mentioned in paragraph (2) in part-time employment, the salary for that period shall be the amount which it would have been if the employment had been full-time during that period.”.

9.—(1) In paragraph 7(1) of the Schedule, for the word “If” there shall be substituted “Subject to paragraph 7A, if”.

(2) After paragraph 7 of the Schedule there shall be inserted the following paragraph—

“7A. Where—

- (a) a participator joined the Scottish Teachers' Superannuation Scheme under the Teachers Superannuation (Scotland) Regulations 1977 or the Superannuation Regulations on or after 1st September 1991;
- (b) the participator's election under regulation 4 or, if more than one, his first election, takes effect on or after 1st February 2001; and
- (c) the participator's earnings in his first year of pensionable employment do not exceed one-quarter of the permitted maximum under section 590C of the Taxes Act(4), the permitted amount shall be G as defined in paragraph 7.”.

St Andrew's House,  
Edinburgh  
11th December 2000

*JACK McCONNELL*  
A member of the Scottish Executive

We consent.

18th December 2000

*BOB AINSWORTH*  
*CLIVE BETTS*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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(4) Section 590C was inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraph 4(a) and amended by the Finance Act 1993 (c. 34), sections 107(4), (5) and (8).

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

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## EXPLANATORY NOTE

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

These Regulations amend the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995 ("the 1995 Regulations").

Regulation 3 inserts into regulation 2 of the 1995 Regulations a definition for the phrase "Investment Linked Pension" which is a pension that remains investment linked after it becomes payable and which is payable from an authorised annuity policy.

Regulation 4 amends regulation 5 of the 1995 Regulations and allows a teacher who elects for their lump sum death benefit to be used to purchase a pension policy to specify that such a pension is to be an Investment Linked Pension.

Regulation 5 amends the timescale for the remittance of contributions to the Scottish Ministers after deduction from 14 days to 7 days.

Regulation 6 amends regulation 10 of the 1995 Regulations to allow inward transfers from a free-standing scheme or an approved scheme to the AVC scheme to be made at any time by a person in pensionable employment.

Regulation 7 amends regulation 12(5) of the 1995 Regulations so that a teacher is not required to make a benefits election when nearing retirement. If the teacher does so, however, they may elect that they are provided with a pension which is Investment Linked. Regulation 7 makes a corresponding amendment to regulation 12(8) so that if the teacher has not made a benefits election under paragraph (5) before they attain the age of 75, the Scottish Ministers may purchase a pension policy for them on or after their attaining that age.

Regulation 8 amends the calculation of the average of the participator's salary and adjusted salary in paragraph 3 of the Schedule so that if a teacher is in part-time employment their salary shall be treated as if they had been in full-time employment for the relevant period.

Regulation 9 amends paragraph 7 of the Schedule and inserts a new paragraph 7A, so that the retirement pension of teachers who joined the Scottish Teachers' Superannuation Scheme on or after 1st September 1991 and who are "low earners" (those who earn less than one-quarter of the permitted maximum under section 590C of the Taxes Act in the first year of pensionable employment) will always be the relevant fraction of their final remuneration (that is, G as defined in paragraph 7(2) (a) of the Schedule to the 1995 Regulations).