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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 217**

**The Teachers' Pension Scheme (Scotland) Regulations 2014**

**PART 8**

**Payment of benefits**

**CHAPTER 5**

**Miscellaneous**

**Recovery of overpayment of benefits**

**171.**—(1) This regulation applies in respect of a financial year for which a decrease in prices is specified in the Treasury order.

(2) The scheme manager may recover any overpayment of benefits that occurs as a result of the application of the leaver index adjustment for that year.

**Interest on late payment of benefits**

**172.**—(1) This regulation applies to a benefit except—

- (a) a phased retirement pension or a lump sum payable under regulation 162 in place of part of that pension; or
- (b) a total incapacity pension payable between the date on which the person to whom it is paid first engages in any other form of work as mentioned in regulation 115(2)(c) and the date on which the scheme manager is satisfied that the person continues to meet the total incapacity condition despite engaging in such work.

(2) Except as provided in paragraphs (8) and (9), where a benefit to which this regulation applies is not paid within one month after the due date, the scheme manager must pay interest on the amount unpaid at the Bank of England base rate compounded with 3-monthly rests from the due date to the date of payment.

(3) Where the benefit is a death grant, the due date is the day after the date on which the scheme manager became satisfied that payment may be made.

(4) Where the benefit is a lump sum under regulation 162, 165 or 168 or a grant other than a death grant, the due date is the day on which the benefit is payable.

(5) Where the benefit is a pension or annuity, the due date is the last day of the month in which entitlement to the benefit took effect.

(6) In determining the due date in accordance with paragraphs (4) and (5), no account is to be taken of the requirement to make an application for the benefit under regulation 159.

(7) In this regulation “Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets; or

(b) where an order under section 19 of the Bank of England Act 1998<sup>(1)</sup> is in force, any equivalent rate determined by the Treasury under that section.

(8) Where a payment to the scheme manager is received after the benefit to which it relates becomes payable, the scheme manager may determine that this regulation does not apply to the benefit until the payment is received.

(9) If paragraph (10) applies, the scheme manager may determine that this regulation does not apply to any benefit, either in respect of the whole period or any part of the period.

(10) This paragraph applies if—

- (a) a benefit is payable between the date specified under regulation 169(1) and the date on which the evidence required under that regulation is received by the scheme manager;
- (b) that evidence was not provided by the date specified but was provided later; and
- (c) it does not appear to the scheme manager that the delay in providing the evidence was due to circumstances outside the control of the person to whom the benefit is payable.

### **Payment of benefits in certain cases**

**173.**—(1) Where a person (P) to whom a benefit is payable has not reached the age of 16 or is incapable by reason of infirmity of mind or body of managing P's affairs, the scheme manager may—

- (a) pay the benefit to any person having the care of P; or
- (b) apply it as the scheme manager thinks fit for the benefit of P or P's dependants.

(2) Where a benefit is payable to a widow and there is more than one widow, the benefit must be paid to the widows in equal shares.

(3) Where on the death of a person (D) the total of any sums due to D and any sums payable to D's executors under these Regulations does not exceed the amount specified in any order made under section 6 of the Administration of Estates (Small Payments) Act 1965<sup>(2)</sup> which applies to D's death, the scheme manager may, without requiring the production of confirmation or other proof of title, pay the amount due—

- (a) to D's executors; or
- (b) to the person, or to or among any one or more of any persons, appearing to the scheme manager to be beneficially entitled to D's estate.

### **Benefits not assignable**

**174.**—(1) Any assignation of or charge on, or agreement to assign or charge, any benefit under these Regulations is void.

(2) On the sequestration of the estate of a person entitled to any such benefit or on the bankruptcy of such a person, no part of the benefit passes to any trustee or other person acting on behalf of the creditors, except as provided in paragraph (3).

(3) Nothing in paragraph (2) affects the powers of the Court under section 32(2) and (4) of the Bankruptcy (Scotland) Act 1985<sup>(3)</sup> or under section 310 of the Insolvency Act 1986<sup>(4)</sup>.

### **Forfeiture of benefits**

**175.**—(1) This regulation applies to a benefit payable to a person who is convicted of—

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(1) 1998 c.11.  
(2) 1965 c.32; the amount currently specified in S.I. 1984/539 is £5,000.  
(3) 1985 c.66.  
(4) 1986 c.45.

- (a) an offence of treason, or
- (b) one offence or more under the Official Secrets Acts 1911 to 1989<sup>(5)</sup> for which the person has been sentenced on the same occasion to a term of imprisonment of, or to 2 or more consecutive terms amounting in the aggregate to, at least 10 years,

where the offence was committed before the benefit became payable.

(2) This regulation also applies to retirement benefits or a pension credit retirement pension payable to a person convicted of an offence, committed before the benefit became payable, in connection with service as a public servant certified by the scheme manager to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.

(3) This regulation also applies to a benefit payable on the death of a person (D) to any person convicted of the murder of D, the culpable homicide of D or any other offence of which the unlawful killing of D is an element.

(4) The scheme manager may defer or suspend payment of a benefit to which this regulation applies for so long, or reduce its amount or rate by so much and for so long, as the scheme manager may determine.

#### **Reduction of benefits: annual allowances and lifetime allowance charge**

**176.**—(1) This regulation applies to the situations set out in paragraphs (2) and (3) and in this regulation “the charge” refers to either of the charges set out in those paragraphs.

(2) The lifetime allowance charge under section 214 of FA 2004 arises because a benefit becomes payable to a person and the person and the scheme manager are jointly and severally liable to the charge.

(3) The annual allowance charge under section 227 of FA 2004 arises in respect of a person who serves a notice under section 238A of that Act.

(4) The scheme manager must pay the charge.

(5) The amount of the benefit must be reduced to reflect the amount of the charge in such manner as the scheme manager is to determine, after taking advice from the scheme actuary.

#### **General prohibition on unauthorised payments**

**177.** Nothing in these Regulations requires or authorises the making of any payment which, if made, would be an unauthorised payment for the purpose of Part 4 of FA 2004 (see section 160(5) of that Act) unless the scheme manager determines otherwise (in the case of a particular payment).

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(5) 1911 c.28, 1920 c.75, 1939 c.121, 1989 c.6.