

2001 No. 291

PENSIONS

The Teachers' Superannuation (Scotland) Amendment Regulations 2001

Made 22nd August 2001

Laid before the Scottish Parliament 29th August 2001

Coming into force 1st October 2001

The Scottish Ministers, in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972(a) 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(b), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Teachers' Superannuation (Scotland) Amendment Regulations 2001 and shall come into force on 1st October 2001.

Amendment of the Teachers' Superannuation (Scotland) Regulations 1992

2. The Teachers' Superannuation (Scotland) Regulations 1992(c) shall be amended in accordance with regulations 3 to 19 of these Regulations.

Further employment

3. In regulation B5 in paragraph (5) for "A person" there shall be substituted "Subject to regulation B8, a person".

4. After regulation B7 there shall be inserted the following regulation:—

"Further employment

B8.—(1) Subject to paragraph (2) and regulations B5 to B7, a teacher who is already in receipt of a teacher's pension, including cases where the annual rate of pension has been reduced to zero in accordance with regulation E15 (abatement of retirement pension) is in pensionable employment where on or after 1st October 2001 he enters into full-time or part-time service in an employment specified in Schedule 2.

(a) 1972 c.11; section 9 was amended by section 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, article 2 and Schedule 1 (S.I. 1999/1750).

(b) 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) and is still exercisable by virtue of S.I. 1999/1750, article 2 and Schedule 1.

(c) S.I. 1992/280, amended by S.I. 1992/1025 and 1597, 1993/490 and 2513, 1994/1715 and 2699, 1995/840 and 1670, 1997/676, 1999/446 and S.S.I. 2000/366.

(2) A teacher who is excluded from pensionable employment by virtue of regulation B5(5) shall not be in pensionable employment unless he makes an election under regulation B7 (resumption of membership).”.

Salary on which contributions are payable - election

5. In regulation C1A–
- (a) in paragraph (1) for “A teacher” there shall be substituted “Subject to paragraph (12) a teacher”; and
 - (b) after paragraph (11) there shall be inserted the following paragraph:–
“(12) Paragraph (1) shall not apply where a teacher is in pensionable employment by virtue of regulation B8.”.

Additional contributions to purchase past added years

6. In regulation C3(1)(a) after “pensionable employment” there shall be inserted “otherwise than by virtue of regulation B8”.

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

7. In regulation C4 after paragraph (4) insert the following paragraph:–
“(5) This regulation does not apply to a teacher who at the date of his death was in pensionable employment by virtue of regulation B8.”.

Additional contributions to purchase current added years

8. In regulation C8 after paragraph (13) insert the following paragraph:–
“(14) This regulation does not apply to a teacher in relation to pensionable employment by virtue of regulation B8.”.

Repayment of returned contributions

9. In regulation C13 after paragraph (7) insert the following paragraph:–
“(8) This regulation does not apply to a teacher who is in pensionable employment by virtue of regulation B8.”.

Qualification for retiring allowances

10. In regulation E4 after paragraph (2) there shall be inserted the following paragraph:–
“(2A) If a teacher was in pensionable employment by virtue of regulation B8, any period of 1 year in such employment is an appropriate qualifying period.”.

Enhancement of retiring allowances in case of incapacity

11. In regulation E9–
- (a) for sub-paragraph (a) of paragraph (1) there shall be substituted the following–
 - “(a) (i) where his pensionable employment terminates before 1st October 2001, he had completed periods of the kind described in Part I of Schedule 8 totalling at least 5 years, excluding any period in respect of which contributions have been returned to him and not repaid to the Scottish Ministers, or
 - (ii) where his pensionable employment terminates on or after 1st October 2001, he had completed periods of the kind described in Part I of Schedule 8 totalling at least 2 years, excluding any period in respect of which contributions have been returned to him and not repaid to the Scottish Ministers; and”;
 - (b) for paragraph (2) there shall be substituted the following:–
“(2) In relation to a teacher who was in part-time service which was pensionable employment, this regulation shall not apply unless the aggregate of the periods of contract of employment during which the part-time service was given and the period of

full-time service, if any, extends to at least 5 years, where pensionable employment terminates before 1st October 2001 and 2 years, where pensionable employment terminates on or after 1st October 2001.”; and

- (c) in paragraph (4) the words “at least 5 years but” shall be omitted.

Retiring allowances on cessation of further employment

12. In regulation E16(1)(b) after “(“the further employment”)” insert “(other than further employment to which regulation B8(1) applies)”.

13. After regulation E16 there shall be inserted the following regulation:–

“**E16A.**—(1) This regulation applies–

- (a) to a teacher who has been in further employment for the appropriate qualifying period under regulation E4(2A); and
(b) where such employment has ceased.

(2) A teacher to whom this regulation applies becomes entitled to payment of retirement benefits in accordance with paragraphs (3) to (6) by reference to his reckonable service in the further employment.

(3) Where regulation E5(1)(a)–(d) applies, subject to paragraph (6), a teacher’s entitlement to retirement benefits takes effect–

- (a) where, at the time of the application for benefits under regulation E31 the teacher was in pensionable or excluded employment, as from the day after the end of the employment; and
(b) in any other case on a date determined by the teacher making the application for benefits under regulation E31 being a date no earlier than 6 weeks after the date of such application.

(4) Where regulation E5(1)(e) applies, subject to paragraph (6), a teacher’s entitlement to retirement benefits takes effect in accordance with regulation E5(2)(b).

(5) Where regulation E5(1)(f) applies, subject to paragraph (6), a teacher’s entitlement to retirement benefits takes effect in accordance with regulation E5(2)(c).

(6) Where a teacher ceases to be in further employment which is pensionable by virtue of regulation B8 (“the earlier further employment”) and he subsequently enters further employment without making an application for benefits under regulation E31 in respect of the earlier further employment, he cannot make such an application during any period of subsequent further employment.”.

Death gratuities

14. In regulation E19 after the word “allowances” in paragraph (1)(d) there shall be inserted “or (e) was on unpaid maternity or parental leave”.

Deficiency grants

15. In regulation E20–

- (a) in paragraph (2) for sub-paragraphs (a) and (b) there shall be substituted the following:–
“(a) the teacher became entitled to retirement benefits before 1st October 2001;
(b) at least 10 years’ reckonable service was taken into account in calculating his retiring allowances; and
(c) the total of the amounts paid in respect of these allowances is less than the pensionable salary,”;
- (b) in paragraph (3) for sub-paragraphs (a) and (b) there shall be substituted the following:–
“(a) the teacher became entitled to retirement benefits before 1st October 2001;
(b) less than 10 years’ reckonable service was taken into account in calculating his retiring allowances; and
(c) the amount paid in respect of his retirement pension is less than 5 times the annual rate at which it was payable when he died,”;

- (c) there shall be inserted after paragraph (3) the following paragraph:–
- “(3A) If–
- (a) the teacher’s entitlement to retiring allowances takes effect on or after 1st October 2001; and
 - (b) the amount paid in respect of his retirement pension is less than 5 times the annual rate at which it was payable when he died, a grant equal to that deficiency may be paid.”; and
- (d) in paragraph (4A) for “paragraph (2) or (3)”, there shall be substituted “paragraphs (2), (3) or (3A)”.

Family benefits generally

16. In regulation E21 after paragraph (1) there shall be inserted the following paragraph:–

“(1A) Where a teacher has further employment which is pensionable by virtue of regulation B8, in calculating the benefits payable under regulations E23 to E28, that further employment shall not be taken into account but those regulations shall apply to further employment which is pensionable by virtue of regulation B8 as it applies to any other pensionable employment.”.

Payment by employers to Scottish Ministers

17. In regulation G10(1) and (1A) for “15 days” there shall be substituted “7 days”.

Modified application in case of employment at reduced salary

18. In regulation H1(1) in sub-paragraph (e) after the word “beneficial” there shall be inserted–

“; and

- (f) where he is not now in pensionable employment by virtue of regulation B8”.

Schedule 1, Glossary of Expressions

19. In Schedule 1–

- (a) after the definition of “Incapacity gratuity” there shall be inserted–
- | | |
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| ““Maternity leave” | Leave within the meaning of Part II of the Maternity and Parental Leave etc. Regulations 1999(a).”; |
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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 4 introduces a new regulation B8 under which full-time and part-time further employment after retirement will be pensionable unless the teacher elects to opt-out. A teacher in pensionable full-time further employment which commenced before 1st April 1997 is not affected by this regulation for so long as that teacher remains in the same employment.

Regulation 5 amends regulation C1A (which allows a teacher whose salary has been reduced to elect to continue to pay higher contributions) to exclude a teacher who is in pensionable employment under regulation B8 from this provision.

Regulations 6 to 9 and 18 exclude a teacher who is in pensionable employment under regulation B8 from regulations C3 (additional contributions to purchase past added years), C4 (additional contributions to purchase past added years in the case of a deceased teacher), C8 (additional contributions to purchase current added years) and H1 (modified application in case of employment at reduced salary) of the 1992 Regulations.

Regulation 10 amends regulation E4 of the 1992 Regulations to require a qualifying period of one year, which may be discontinuous, to be completed by a teacher who is in pensionable employment under regulation B8.

Regulation 11 amends regulation E9 of the 1992 Regulations to reduce from 5 years to 2 years the period needed to qualify for enhanced ill-health retirement benefits in respect of teachers who retire on grounds of incapacity where pensionable or excluded employment terminates on or after 1st October 2001.

Regulation 12 amends regulation E16 of the 1992 Regulations so that it does not apply to teachers whose further employment is pensionable under regulation B8. Regulation E16 will continue to have effect in relation to teachers whose benefits become payable on cessation of pensionable full-time further employment which commenced before 1st April 1997 and other teachers who undertake pensionable employment (full-time or part-time) on ceasing to be incapacitated, unless this follows further employment which was pensionable under regulation B8.

Regulation 13 introduces a new regulation E16A to provide for further retirement benefits of a teacher who ceases to be employed in further employment which was pensionable under regulation B8.

Regulation 14 amends regulation E19 of the 1992 Regulations by extending the provisions relating to death-in-service benefits to those on unpaid maternity and parental leave.

Regulation 15 amends regulation E20 of the 1992 Regulations to introduce a five year pension guarantee in respect of all teachers whose retirement benefits become payable on or after 1st October 2001.

Regulation 16 amends regulation E21 of the 1992 Regulations so that further employment which is pensionable under regulation B8 is treated separately from other employment in calculating family benefits.

Regulation 17 amends the timescale for the remittance of contributions to the Scottish Ministers after deduction from 14 days to 7 days (contained in regulation G10(1) and (1A) of the 1992 Regulations).

Regulation 19 adds definitions of "Maternity leave" and "Parental leave" to Schedule 1 of the 1992 Regulations.

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