

2001 No. 292

PENSIONS

The Teachers' Superannuation (Additional Voluntary Contributions) (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 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, commencement and effect, and interpretation

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Amendment Regulations 2001.

(2) These Regulations shall come into force on 1st October 2001 and shall have effect from 1st December 2000.

(3) In these Regulations, "the 1995 Regulations" means the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995(c).

Amendment of 1995 Regulations

2. The 1995 Regulations shall be amended in accordance with the following provisions.

3. In regulation 2(2) after the words "Income and Corporation Taxes Act 1988," there shall be inserted the words "references to the 1999 Act are references to the Welfare Reform and Pensions Act 1999(d)".

4. In regulation 2(3) there shall be inserted in the appropriate places in alphabetical order the following definitions:—

"the AVC Scheme" means the occupational pension scheme (within the meaning of section 1 of the Pension Schemes Act 1993(e)) established under section 9 of the Superannuation Act 1972 and these Regulations;

"pension credit" means a credit under section 29(1)(b) of the 1999 Act or under corresponding Northern Ireland legislation;

(a) 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).

(b) This function was transferred to the Treasury by the Transfer of Functions to the Scottish Ministers etc. 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. 1995/2814, amended by S.S.I. 2000/444.

(d) 1999 c.30.

(e) 1993 c.48.

“pension credit benefits” means in relation to the AVC Scheme the benefits payable under that Scheme which are attributable (directly or indirectly) to a pension credit;

“pension credit member” means a person who has rights under the AVC Scheme which are attributable (directly or indirectly) to a pension credit either solely or wholly separately from any other rights under the AVC Scheme;

“pension debit” means a debit under section 29(1)(a) of the 1999 Act or under corresponding Northern Ireland legislation;

“pension debit member” means a person who has rights under the AVC Scheme and whose shareable rights under that Scheme are subject to a pension debit;

“pension sharing order” means a pension sharing order or other provision referred to in section 28(1) of the 1999 Act or article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(a);

“shareable rights” means any rights a person has under the AVC Scheme except those rights referred to in regulation 2 of the Pension Sharing (Valuation) Regulations 2000(b).

5. After regulation 11(3) there shall be inserted—

“(4) The Scottish Ministers may pay a transfer value representing the value of a person’s pension credit or of investments made under regulation 13A(2) in the circumstances of Chapter II of Part IVA of the Pension Schemes Act 1993(c) and regulations made under that Chapter(d).”.

6. In regulation 12(11) the words “arising from the participator’s service” shall be omitted.

7. After regulation 13 there shall be inserted—

“Pension sharing on divorce

13A.—(1) Pension sharing within the meaning of Part IV of the 1999 Act is available under the AVC Scheme in respect of all or part of a person’s shareable rights as set out in this regulation except as otherwise provided and the Scottish Ministers shall discharge their liability in respect of a pension credit which derives from the AVC Scheme in accordance with paragraph 1 of Schedule 5 to the 1999 Act (pension credits: mode of discharge: funded pension schemes).

(2) Upon the taking effect of a pension sharing order, an amount representing the pension credit member’s share of the pension debit member’s accumulated additional voluntary contributions calculated in accordance with regulation 10(4) of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(e), shall be invested by the Scottish Ministers in accordance with the wishes of the pension credit member in one or more of the funds authorised by the Scottish Ministers for the purposes of these Regulations managed by an insurance company selected by him.

(3) The benefits that may be provided in accordance with this regulation under a pension policy purchased as described in regulation 12(7) as it applies in the circumstances of this regulation are a pension and one or more dependant’s pensions.

(4) The pension will commence not earlier than the date on which the pension credit member attains the age of 60 and is payable for life.

(5) A dependant’s pension is a pension which would become payable to a dependant on the death of the pension credit member after his pension has commenced as provided in paragraph (4) and is payable for life, except that, in the case of a dependant who is a child as defined in the 1992 Regulations, it shall cease to be payable when that person ceases to be a child.

(6) Upon the death of a person after a pension sharing order has been made but before the Scottish Ministers have discharged their liability in respect of the pension credit to which that person would otherwise be entitled, a lump sum equal to the value of the pension credit at the date of that person’s death shall be paid to his personal representatives.

(a) S.I. 1993/3147 (N.I. 11).

(b) S.I. 2000/1052. See the Welfare Reform and Pensions Act 1999, section 27(2).

(c) Part IVA was inserted into the Pension Schemes Act 1993 by section 37 of the Welfare Reform and Pensions Act 1999.

(d) See Part III of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054).

(e) S.I. 2000/1053, regulation 10(4) is amended by S.I. 2000/2691.

(7) Paragraphs (4) to (11) of regulation 12(a) apply in the circumstances of this regulation with the following modifications:–

- (a) the reference to participator shall be a reference to pension credit member;
- (b) the reference to retirement shall be a reference to the date on which the pension commences under regulation 13A(4);
- (c) the reference to retirement pension shall be a reference to a pension credit member's pension;
- (d) the reference to investments made under regulation 9(1) or 10(2) shall be a reference to investments made under regulation 13A(2);
- (e) the reference to the insurance company referred to in regulation 9 shall be a reference to the insurance company referred to in regulation 13A(2);
- (f) the reference in paragraph (10) to serious ill-health shall be a reference to ill-health which is such as to give rise to a life expectancy of less than one year from the date on which commutation is applied for; and
- (g) the reference in paragraph (11) to the amount prescribed by regulations for the time being in force under section 21(1) of the Pension Schemes Act 1993 shall be a reference to the amount prescribed by regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000(b).

(8) In regulation 16, wherever regulation 12(5), (6) or (9) is referred to, it shall include a reference to that regulation as modified by this regulation in relation to pension credits.”.

ANGUS MACKAY

A member of the Scottish Executive

St Andrew's House,
Edinburgh
31st July 2001

We consent,

TONY McNULTY

JOHN HEPPELL

Two of the Lords Commissioners of Her Majesty's Treasury

22nd August 2001

(a) Regulation 12 is amended by regulation 6 of these Regulations.
(b) S.I. 2000/1054. The sum currently referred to is £260.

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"). The amendments make provision for pension benefits to a former spouse following a pension sharing order or agreement on divorce or nullity of marriage. They have retrospective effect from 1st December 2000 as authorised by section 12 of the Superannuation Act 1972.

Regulation 4 inserts new definitions into the 1995 Regulations.

Regulation 5 amends regulation 11 of the 1995 Regulations to provide that a pension credit member may transfer his pension credits out of the AVC Scheme.

Regulation 7 inserts a new paragraph 13A into the 1995 Regulations to provide that pension sharing is available in the AVC Scheme. The pension credit member's share of his former spouse's contributions will be invested by the Scottish Ministers in accordance with the pension credit member's wishes. A pension for life and one or more dependant's pensions for life may be provided from the pension policy purchased under the Regulations. The pension will commence not earlier than the date on which the pension credit member reaches the age of 60. If a person dies after a pension sharing order has been made but before the Scottish Ministers have discharged their liability in respect of it then a lump sum equal to the value of that pension credit at the date of his death is paid to his personal representatives. The following paragraphs of regulation 12 apply with modifications: paragraph (4) (no surrender etc), (5) (benefits election), (6) (death within 5 years of pension commencing), (7) (purchase of pension policy), (8) (no benefit election), (9) (death before pension commences etc), (10) (commutation for serious ill-health), and (11) (commutation for triviality).

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