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SCOTTISH STATUTORY INSTRUMENTS

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**2003 No. 423**

**PENSIONS**

**The Teachers' Superannuation (Scotland)  
Amendment Regulations 2003**

*Made* - - - - 8th September 2003  
*Laid before the Scottish  
Parliament* - - - - 10th September 2003  
*Coming into force* - - 1st October 2003

The Scottish Ministers, in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972(1) 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(2), hereby make the following Regulations:

**Citation and Commencement**

1. These Regulations may be cited as the Teachers' Superannuation (Scotland) Amendment Regulations 2003 and shall come into force on 1st October 2003.

**Amendment of the Teachers' Superannuation (Scotland) Regulations 1992**

2. The Teachers' Superannuation (Scotland) Regulations 1992(3) shall be amended in accordance with regulations 3 to 12 of these Regulations.

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(1) 1972 c. 11; section 9 was amended by sections 4(1), 8(3), (4) and (6), and 11 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) ("the 1990 Act"), by section 190, Schedule 8, paragraph 7 of the Pension Schemes Act 1993 (c. 48) and by article 107 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), and section 12 was amended by section 10 of the 1990 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).

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

(3) 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, 1998/718, 1999/446 and S.S.I. 2000/366, 2001/152 and 291 and 2002/288.

### **Part-time service**

3. In regulation B2, paragraph (5), for “regulation G9B(1)” there shall be substituted “regulation G7(1)” and for “regulation G9B(2)” there shall be substituted “regulation G7(2)”.

### **Ordinary contributions**

4. In regulation C2, paragraph (1A), for “regulation G9A” there shall be substituted “regulation G6”.

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

5. In Regulation C11, paragraph (3)(a)(i), for “regulation G4” there shall be substituted “regulation G2”.

### **Repayment of returned contributions**

6. In regulation C13, paragraph(4), for “regulation G4” there shall be substituted “regulation G2”.

### **Pensionable Salary**

7. In regulation E29, paragraphs (13) and (16), for “regulation G10(1D)” there shall be substituted “regulation G8(5)”.

### **Finance**

8. For Part G there shall be substituted the Part G set out in the Schedule.

### **Repayment of contributions where an election is not made under regulation G10(1D)**

9. In Regulation H4A, in the heading and in paragraph (1)(b), for “regulation G10(1D)” there shall be substituted “regulation G8(5)”.

### **Schedule 1: Glossary of Expressions**

10. In Schedule 1 for the expression “Required percentage” in column 1, there shall be substituted in column 2 the meaning “Shall be construed in accordance with regulation G5.”

### **Schedule 4: Additional Contributions to Purchase Past Added Years**

11. In Schedule 4, paragraph 2(2), in subparagraph B, for “regulation G4”, there shall be substituted “regulation G2.”

### **Schedule 12: Teachers' Superannuation Account**

12. For Schedule 12, there shall be substituted—

“Schedule 12

TEACHERS' SUPERANNUATION ACCOUNT  
FORM OF ACCOUNT ACCOUNT UNDER REGULATION G1 OF THE SCOTTISH  
TEACHERS' SUPERANNUATION (SCOTLAND) REGULATIONS 1992 FOR THE  
YEAR ENDING 31ST MARCH 20

		.000s	.000s
HEAD	Notional balance at 1st April 20		
	<b>ADD RECEIPTS</b>		
AI	Contributions		
	(i) Employees		
	(ii) Employers		
II	Transfer Values		
	(i) Actual		
	(ii) Notional		
III	Contributions equivalent premiums		
IV	Miscellaneous receipts		
V	Notional investment income		
	<b>DEDUCT PAYMENTS</b>		
BI	Benefits		
	(i) Retirement pensions		
	(ii) Retirement lump sums		
	(iii) Death gratuities		
	(iv) Widow's pensions		
	(v) Widower's pensions		
	(vi) Children's pensions		
	(vii) Other beneficiaries' pensions		
	(viii) Short term benefits		
II	Repayments of contributions		
III	Transfer values		
	(i) Actual		
	(ii) Notional		
IV	Contributions equivalent premiums to the State Pension Scheme		
V	Increases payable under the Pensions (Increase) Act 1971(a)		
	Notional balance at 31st March 20		

St Andrew's House, Edinburgh  
27th August 2003

*TAVISH SCOTT*  
Authorised to sign by the Scottish Ministers

We consent,

8th September 2003

*NICK AINGER*  
*JOAN RYAN*  
Two of the Lords Commissioners of Her Majesty's Treasury

## SCHEDULE

Regulation 8

## “PART G

## FINANCE

**Teachers' superannuation account**

**G1.** The Scottish Ministers shall keep an account, substantially in the form set out in Schedule 12, of all receipts and payments under these Regulations for every financial year.

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

**G2.**—(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) and (1A), C3, C4, C5, C7 and C9, and paragraph 24 of Schedule 9;
- (b) so much of any additional contributions payable under regulation C8 and C8A as would have been payable under regulation C2(1) if pensionable employment had continued; and
- (c) all amounts payable under regulation C13.

(3) Employers' contributions comprise—

- (a) the contributions payable under regulations G5, G6 and G7; and
- (b) so much of any additional contributions payable under regulations C8 and C8A as would have been payable under regulation G5 if pensionable employment had continued.

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

- (a) subject to paragraph (b), the closing balance in the account for the preceding financial year;
- (b) the closing balance in the account for the financial year ending on 31st March 2001 as determined by the Government Actuary by reference to the value of the scheme assets mentioned in regulation G4(9);
- (c) all transfer values accepted under regulation F3 and additional transfer values under regulation D5 received during the financial year;
- (d) all contributions equivalent premiums refunded, or recovered under section 61 of the 1993 Act, during the financial year;
- (e) any interest and other payments under these Regulations received during the financial year; and
- (f) the notional investment income for the financial year on the balance in the account.

(5) For the purposes of paragraph (4)(f), the notional investment income for the financial years commencing on or after 1st April 2001 shall be determined by the Government Actuary and derived using a percentage return as specified from time to time by the Government Actuary.

### **Payments to be debited**

**G3.** 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;
- (c) return of contributions (including interest) under regulations C10 and C12;
- (d) transfer values under regulation F1 and additional transfer values under regulation F2;
- (e) contributions equivalent premiums; and
- (f) increases payable under the Pensions (Increase) Act 1971.

### **Actuarial review**

**G4.—**(1) The Government Actuary shall, from time to time, make an actuarial review on the position in relation to the account as at the date determined by the Scottish Ministers (“the review date”).

(2) In making a determination for the purposes of paragraph (1) the Scottish Ministers shall secure that—

- (a) the next review date is no later than 31st March 2006; and
- (b) the review date for each subsequent report is not later than 5 years after the previous review date.

(3) The Government Actuary, with the agreement of the Scottish Ministers, shall specify the funding methodology to be used in making the actuarial review.

(4) Any determination in relation to an actuarial inquiry made by the Scottish Ministers under paragraph (1) before 1st October 2003 shall have effect as if it were a determination in relation to an actuarial review.

(5) The Government Actuary shall make a report (“the report”) on the actuarial review to the Scottish Ministers as soon as practicable after the review date and the Scottish Ministers shall lay the report before the Scottish Parliament.

(6) The report shall specify the standard contribution rate (expressed as a percentage) at which contributions should be paid during the period beginning and ending on days (following the date of the report) determined by the Scottish Ministers (“the relevant period”).

(7) The report shall state the amount by which, at the review date, the value of the scheme assets exceeded or fell short of that of the scheme liabilities.

(8) Subject to paragraph (9), the scheme assets and the scheme liabilities shall be determined in accordance with the funding methodology specified in paragraph (3).

(9) For the purposes of the actuarial review reporting on the position in relation to the account as at 31st March 2001, the value of the scheme assets shall equal the value of the scheme liabilities.

(10) If the report states that the value 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 the first day of the relevant period.

(11) If the report states that the value 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 the first day of the relevant period.

(12) The rate referred to in paragraphs (10) and (11) is to be expressed as a percentage of the contributable salaries from time to time of persons in pensionable employment; the percentage must be a multiple of 0.05.

(13) Any determination made by the Scottish Ministers for the purpose of this regulation shall be made with the consent of the Treasury.

(14) In this regulation “employees' contributions” and “employers' contributions” are to be construed in accordance with regulation G2(2) and (3).

### **Employers' contributions**

**G5.**—(1) Subject to paragraph (3), the employer of a teacher in pensionable employment shall during every relevant period beginning with the relevant period starting on 1st October 2003 pay contributions of the required percentage of the teacher's contributable salary for the time being.

(2) The required percentage is –

$$\frac{A - B}{100 - C}$$

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

A is the percentage specified for the relevant period under regulation G4(6);

B is any percentage specified for the relevant period under regulation G4(10) and (12); and

C is any percentage specified for the relevant period under regulation G4(11) and (12).

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

(4) Where a teacher commences employment by virtue of regulation H1A and that teacher either simultaneously or subsequently commences employment at reduced salary by virtue of regulation H1 the employer of that teacher shall pay the contributions payable under paragraphs (1) and (2) and regulation C2 on the amount determined by paragraph (5).

(5) The amount referred to under paragraph (4) shall be the difference between–

(a) the contributable salary which would be payable under regulation H1A if employment at reduced salary by virtue of regulation H1 had not been commenced, and

(b) the contributable salary payable where employment has been commenced under both regulations H1 and H1A.

(6) 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 G4(6).

(7) In this regulation “employment business” has the meaning assigned to it by section 13(3) of the Employment Agencies Act 1973(4)

### **Employers' contributions – employees' elections under regulation C1A**

**G6.**—(1) In this regulation “employer A”, “employer B” and “employer C” have the same meaning as in regulation C1A(1)(b) and (6)(c).

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(4) 1973 c. 35.

(2) Where a teacher who falls within regulation C1A(1)(a) has made an election under regulation C1A(1), the teacher's employer may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by that employer.

(3) Where a teacher who falls within regulation C1A(1)(b) has made an election under regulation C1A(1), either employer A or employer B may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by employer A or employer B, as the case may be.

(4) Where a teacher who has made an election under regulation C1A(1) ceases to be in pensionable employment in circumstances where—

- (a) his election continues to have effect by virtue of regulation C1A(6)(c)(ii);
- (b) an election has been made under paragraph (2) or under paragraph (3) by employer B; and
- (c) the employer who made the election does not confirm that election under paragraph (7)(a)(ii),

employer C may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by employer C.

(5) In paragraphs (2) and (3) “the contribution deficit” means contributions of the required percentage of the difference between the teacher's actual contributable salary and his contributable salary at the rate referred to in regulation C1A(4).

(6) An election for the purposes of paragraphs (2), (3) or (4)—

- (a) must be made by giving written notice to the Scottish Ministers;
- (b) has effect—
  - (i) in the case of an election under paragraphs (2) or (3), from the date on which the teacher's election under regulation C1A(1) has effect, or from the end of the month in which the election was made, whichever is the later; and
  - (ii) in the case of an election under paragraph (4), from the date on which the teacher takes up employment with employer C or from the end of the month in which the election was made, whichever is the later;
- (c) shall state whether the employer elects to pay the whole of the contribution deficit or a proportion of it and if so what that proportion is; and
- (d) is irrevocable.

(7) An election made under paragraph (2), under paragraph (3) by employer B or under paragraph (4) ceases to have effect—

- (a) in the case of an election under paragraph (2) or (3), if the teacher ceases to be employed by the employer who made the election unless—
  - (i) the teacher elects to pay additional contributions under regulation C8A; or
  - (ii) by virtue of regulation C1A(6)(c)(ii) the teacher's election does not cease to have effect and the employer confirms the election before the date on which the teacher takes up employment with the new employer; and
- (b) in the case of an election under paragraph (4), if the teacher ceases to be employed by the employer who made the election unless he elects to pay additional contributions under regulation C8A.

(8) An election made under paragraph (3) by employer A ceases to have effect if the teacher ceases to be in pensionable employment unless he—

- (a) elects to pay additional contributions under regulation C8A; or

- (b) takes up pensionable employment with another employer within six months of ceasing to be in pensionable employment.
- (9) Where, in relation to a teacher who falls within regulation C1A(1)(b)–
  - (a) there are at any time elections by both employer A and employer B, or, as the case may be, employer A and employer C; and
  - (b) if both elections were fully effective their combined effect would be that more than the contribution deficit would be paid to the Scottish Ministers,

the election by employer B or, as the case may be, employer C shall have full effect but the election by employer A shall have effect only to the extent of the difference (if any) between the contribution deficit and the amount which is the subject of the election by employer B or employer C.

### **Employers' contributions – part-time elections**

**G7.**—(1) Where regulation C2A applies, the employer of the teacher in pensionable employment shall–

- (a) pay contributions calculated in accordance with regulation G5 G5 referable to the back period; and
- (b) unless the Scottish Ministers determine otherwise, pay interest on such contributions which have accrued on each reference date at 7% per annum, compounded with yearly rests from the reference date in question to the date of payment of the contributions, and in this paragraph expressions which are used also in regulation C2A have the same meaning as in that regulation.

(2) Any sum which is due under paragraph (1)(a) shall be paid to the Scottish Ministers on receipt of a written demand (without prejudice to the obligation to pay the sums referred to in paragraph (1)(b)).

### **Payment by employers to Scottish Ministers**

**G8.**—(1) The employer of a teacher in pensionable employment shall pay to the Scottish Ministers, within 7 days after the end of each month–

- (a) all amounts due from the teacher that are deductible from the teacher's teacher's salary under regulation C14(1);
- (b) the contributions payable under regulation G5; and
- (c) the contributions payable in pursuance of an election under regulation G6,

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

(2) Where the former employer (referred to in regulations C1A(1) and G6 as "employer A") of a teacher in pensionable employment has made an election under regulation G6(3), that employer shall pay to the Scottish Ministers within 7 days after the end of each month the contributions payable in pursuance of the election.

(3) Where an employer has elected under regulation C3(2A) to pay additional contributions in respect of a teacher, payment to the Scottish Ministers of the lump sum referred to in paragraph 9(1) of Schedule 4 shall be made within the period referred to in paragraph 9(2) of that Schedule.

(4) Where a teacher receives such an increase in contributable salary as is mentioned in regulation E29(13), the teacher's last employer before he became entitled to payment of retirement benefits ("the former employer") may make an election under paragraph (5).



(5) An election under this paragraph is an election to pay an additional contribution of A minus B minus C where—

A is the actuarial value of the retirement benefits to which the teacher would be entitled calculated by reference to the salary he received;

B is the actuarial value of the retirement benefits to which the teacher would be entitled if he was treated as receiving the increase in his contributable salary referred to in regulation E29(13); and

C is the aggregate of contributions which would be repaid under regulation H4A if no election had been made.

(6) An election under paragraph (5) may be made by giving written notice to the Scottish Ministers no later than six weeks after the date on which the teacher became entitled to payment of retirement benefits.

(7) Where an election is made under paragraph (5) the payment to the Scottish Ministers under the election shall be made within 7 days after the date of the election.

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

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

(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.

(9) If the full amount of any payment required under paragraphs (1) or (2) or under an election under paragraph (5) is not paid by the end of the period referred to in the relevant paragraph, interest shall be payable by the employer or former employer, as the case may be, on the amount outstanding at the interest rate specified in paragraph (10) compounded with monthly rests from the day after the end of the relevant period to the date of payment; but the Scottish Ministers may in any particular case waive the payment of interest.

(10) For the purposes of paragraph (9) the interest rate is—

(a) 12% per annum in relation to all amounts and contributions payable in relation to pensionable employment before 1st October 2003; and

(b) 8% per annum in relation to all amounts and contributions payable in relation to pensionable employment on or after 1st October 2003.”

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## EXPLANATORY NOTE

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

These Regulations, which come into force on 1st October 2003, make further amendments to the Teachers' Superannuation (Scotland) Regulations 1992 (S.I.1992/280) (“the 1992 Regulations”).

Regulations 3 to 7, and 9 to 11, amend the references to regulations in the new Part G.

Regulation 8 and the Schedule substitute a new Part G for the existing Part G of the 1992 Regulations, dealing with the finance of the scheme. Obsolete regulations, namely those relating to old Part G, the supplemental actuarial inquiry as at 31st March 1991 and the alternative actuarial inquiry as at 31st March 1996 have been deleted.

Regulation 12 provides for the substitution of a new Schedule 12, replacing the existing one in the 1992 Regulations, and setting out the form of account to be kept by Scottish Ministers in respect of receipts and payments under the 1992 Regulations in each financial year.

Regulation G2 of new Part G deems that the closing balance in the Teachers' Superannuation Account for the financial year ending on 31st March 2001 shall be an amount determined by the Government Actuary by reference to the value of the scheme assets mentioned in regulation G4(9). This provides that the value of the scheme assets are equal to the value of the scheme liabilities on 31st March 2001.

The terminology in regulation G4 of the 1992 Regulations has been amended from “inquiry” to “review” and from “amount” to “value” in order to ensure the consistency of the language with modern actuarial methods. The references to the end of the financial year have also been removed.

Regulation G4(3) requires the Government Actuary with the agreement of the Scottish Ministers to specify a funding methodology for each actuarial review.

Regulation G4(6) provides that the standard contribution rate must be specified in the actuarial review.

Regulation G4(8) provides that the scheme assets and scheme liabilities are to be determined using the specified funding methodology.

Regulation G5(2) has the effect that the formula for calculating the employer contribution rate from 1st October 2003 will not include the addition of 0.25%.

Regulation G8(10) reduces the interest rate on late payments of employer contributions from 12% to 8% for periods of pensionable employment on or after 1st October 2003.