

2006 No. 605

PENSIONS

**The Teachers' Superannuation (Scotland) Amendment (No. 2)
Regulations 2006**

Made - - - - - *12th December 2006*
Laid before the Scottish Parliament *18th December 2006*
Coming into force - - - *29th January 2007*

The Scottish Ministers, in exercise of the powers conferred by sections 9, 12 and 24 of 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 these 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 (No. 2) Regulations 2006 and shall come into force on 29th January 2007, but—

- (a) regulation 4 and regulation 2 (so far as relevant to regulation 4) shall have effect from 14th June 2006; and
- (b) regulations 3 to 7 and regulation 2 (so far as relevant to regulation 3) shall have effect from 2nd December 2006.

Amendment of the Teachers' Superannuation (Scotland) Regulations 2005

2. The Teachers' Superannuation (Scotland) Regulations 2005(c) are amended in accordance with regulations 3 and 4 of these Regulations.

3. In regulation C2 (Salary on which contributions are payable – election)—

- (a) in paragraph (1)(a), after “reduced” insert “before 2nd December 2006”; and
- (b) in paragraph (1)(b), after “(“employer A”)” insert “before 2nd December 2006”.

(a) 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 exercised in the making of these Regulations were transferred to the Scottish Ministers as regards Scotland 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.S.I. 2005/393, to which there are amendments not relevant to these Regulations.

4. In regulation E23 (Commutation: exceptional circumstances of ill-health)–
- (a) in paragraph (1) omit “in respect of so much of that pension as exceeds the teacher’s guaranteed minimum”;
 - (b) at the end of paragraph (1) insert “if such a lump sum would be a serious ill-health lump sum as defined in paragraph 4 of Schedule 29 to the Finance Act 2004(a).”; and
 - (c) for paragraph (2) substitute–
“(2) The lump sum is an amount equal to five times the annual rate of the retirement pension.”.

Amendment of the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996

5. The Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996(b) are amended in accordance with regulations 6 and 7.

6. In regulation 16A(1) (Teachers to whom Part IIIA applies) omit “and who is not entitled to payment of retiring allowances under regulation E5(1) of the Superannuation Regulations”.

7. For regulation 16B (Discretion to pay compensation) substitute–

“**16B.** The employer may pay to a teacher to whom this Part applies compensation which shall not exceed (A-B), where–

A is a sum equivalent of 66 weeks’ pay, and

B is the aggregate of–

- (a) any redundancy payment to which the teacher is entitled under Part XI of the 1996 Act(c); and
- (b) any compensation which is paid to him under Part III of these Regulations (additional compensation for redundancy).”.

Amendment of the Teachers’ Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995

8. For regulation 11(1) and (2) of the Teachers’ Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995(d) (outward transfers) substitute–

“(1) Except as provided in paragraph (2) the Scottish Ministers shall, on application by a person who has ceased to be a contributor by virtue of regulation 8(2)(b), (c) or (d), pay a transfer value representing the value of investments made under regulation 9(1) or 10(2) to any other registered pension scheme in which the person may be participating (provided that the other pension scheme is willing and able to accept such a transfer).

(2) A transfer value shall not be payable under paragraph (1)–

- (a) in respect of a person who has ceased to be a contributor by virtue of regulation 8(2)(b), if the person ceased to be a contributor before 29th January 2007 and has not become a contributor again since that date; or

(a) 2004 c.12.

(b) S.I. 1996/2317; relevant amending instruments are S.I. 1997/675 and 1998/719.

(c) The “1996 Act” is the Employment Rights Act 1996 (c.18), and is defined as such in regulation 2(3) of the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996.

(d) S.I. 1995/2814; the relevant amending instrument is S.S.I. 2006/308.

- (b) in respect of a person who has ceased to be a contributor by virtue of regulation 8(2)(c) or (d) and who ceased to be in pensionable employment before 30th June 2006, unless that person has applied for a transfer value under regulation G1 of the Superannuation Regulations.”.

GEORGE LYON

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
5th December 2006

We consent

12th December 2006

KEVIN BRENNAN

DAVE WATTS

Two of the Lords Commissioners of
Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further amendments to the Teachers' Superannuation (Scotland) Regulations 2005 ("the 2005 Regulations"), the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996 ("the 1996 Regulations") and the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995 ("the AVC Regulations").

Amendment of the 2005 Regulations

Regulation 3 amends regulation C2 of the 2005 Regulations which allows a teacher aged 50 or above whose salary is reduced or who takes up employment at a lower salary to elect that contributions should continue to be paid on the salary before the reduction. The effect of the amendment is that regulation C2 only applies where the reduction in salary or the taking up of employment at a lower salary occurs before 2nd December 2006.

Regulation 4 amends regulation E23 so that where a pension is commuted in exceptional circumstances of serious ill-health the whole pension, rather than so much of it as exceeds the teacher's guaranteed minimum, is commuted. This amendment has effect from 14th June 2006, which is the date that the Occupational Pension Schemes (Contracting-Out) (Amendment) Regulations 2006 came into force. Those Regulations allow the payment of a guaranteed minimum as a lump sum in circumstances of serious ill-health.

Amendment of the 1996 Regulations

Regulation 6 amends regulation 16A(1) of the 1996 Regulations to remove the requirement that regulation 16B, which provides for discretionary compensation on the termination of employment, only applies to teachers who are not entitled to retirement benefits under the 2005 Regulations. Under the substituted regulation 16B (substituted by regulation 7) the maximum compensation which can be paid is 66 weeks pay, less any redundancy payments to which the teacher is entitled and any compensation paid under Part IIIA of the regulations. These amendments have effect from 2nd December 2006.

Amendment of the AVC Regulations

Regulation 8 amends regulation 11 of the AVC Regulations to extend the circumstances under which an outward transfer value may be paid. This amendment has effect from 29th January 2007.

The powers to make the provisions in regulations 2 to 7 with retrospective effect are found in section 12(1) and 24(3)(c) of the Superannuation Act 1972.

£3.00

© Crown Copyright 2006

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland