

SCHEDULE 1

Regulation 74

“SCHEDULE 2A

Regulation C4B

Elections in respect of additional benefits

Interpretation

1. In this Schedule—

“additional benefits” means—

- (a) where the election is an election such as is mentioned in paragraph 5(a) or 12(a), an increased retirement pension; and
- (b) where the election is an election such as is mentioned in paragraph 5(b) or 12(b), an increased retirement pension and increased benefits for the teacher’s dependants;

“financial year” means—

- (a) the period starting on 1st April 2007 and ending on 31st March 2008; and
- (b) each subsequent period of 12 months ending on 31st March;

“monthly contribution election” means an election which, pursuant to paragraph 3(a), states that the additional contributions are to be paid in monthly payments;

“the payment period” has the meaning in paragraph 3(a);

“the start date” in relation to any election means the date on which the first contribution or, as the case may be, the lump sum contribution is received by the Scottish Ministers pursuant to the election.

Election by a teacher in pensionable employment

2. Paragraphs 3 to 10 apply in relation to an election by a teacher in pensionable employment pursuant to regulation C4B(1).

3. An election shall state whether the additional contributions—

- (a) are to be paid in monthly payments and, if so, the length of the period over which they are to be paid (“the payment period”); or
- (b) are to be paid in a single lump sum.

4. The length of the payment period must be such that—

- (a) the period ends before the teacher attains the normal pension age; and
- (b) the period does not end on a date which is more than 20 years from the date of the election.

5. An election shall be an election—

- (a) to be credited with an increased retirement pension of an amount specified in the election (but subject to paragraphs 7 and 18 to 22); or
- (b) to be credited with an increased retirement pension as mentioned in sub-paragraph (a) and with increased benefits for the teacher’s dependents.

6. An election shall contain such further information as may be specified by the Scottish Ministers.

7. The amount of an increased retirement pension specified in the election must be a multiple of such amount as may be specified from time to time by the Scottish Ministers.

8. An election is to contain a declaration by the teacher making it that he or she is in normal health.

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9. An election only has effect if the Scottish Ministers notify the teacher making it in writing that it has been accepted.

10. Where an election has been made, nothing in this Schedule shall prevent further elections being made (but subject to paragraphs 18 to 22).

Election by employer

11. Paragraphs 12 to 16 apply in relation to an election made by an employer under regulation C4B(2).

12. An election shall be an election that additional contributions are to be paid in a single lump sum and shall be an election—

- (a) that the teacher in respect of whom the election is made should be credited with an increased retirement pension of an amount specified in the election (but subject to paragraphs 15 and 18 to 22); or
- (b) that the teacher in respect of whom the election is made should be credited with an increased retirement pension as mentioned in subparagraph (a) and with increased benefits for his or her dependents.

13. An election shall be accompanied by a declaration by the teacher in respect of whom it is made that he or she is in normal health.

14. An election shall contain such other information as may be specified from time to time by the Scottish Ministers.

15. The amount of increased retirement pension specified in the election must be a multiple of such amount as may be specified from time to time by the Scottish Ministers.

16. An election only has effect if—

- (a) it is made with the consent of the teacher in respect of whom it is made; and
- (b) the Scottish Ministers notify the employer in writing that it has been accepted.

Effect of election

17. Where an election has been accepted by the Scottish Ministers and has not ceased to have effect the teacher in respect of whom the election was made shall, subject to paragraphs 26, 28, 29 to 31, 32(2), 33, 35 and 36(2), be credited with the additional benefits specified in the election.

Maximum amount of increased pension

18. Where the election is the first election made by or in respect of a teacher the maximum amount of increased retirement pension that may be specified in the election is—

- (a) where the election is made in the financial year starting on 1st April 2007 and ending on 31st March 2008, £5000;
- (b) where the election is made in any subsequent financial year, $A \times RI/RE$ rounded to the nearest £100 where—

A is the maximum amount of increased retirement pension for the financial year before the financial year in which the election is made (whether determined under this paragraph or under paragraph 19);

RI is the retail prices index for the month of April in the financial year before the financial year in which the election is made; and

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RE is the retail prices index for the month of April in the second financial year before the financial year in which the election is made or the index for April 2007 where the financial year before the financial year in which the election is made is the period starting on 1st April 2007 and ending on 31st March 2008.

19. The Treasury shall from time to time review the operation of paragraph 18 and as a result of such review may substitute a different maximum amount of increased pension for the amount determined under paragraph 18.

20. Where an election has previously been made in relation to a teacher (whether by the teacher under regulation C4B(1), or by the teacher's employer under regulation C4B(2)) the maximum amount of increased retirement pension is the amount specified in paragraph 18, or, as the case may be, paragraph 19 less the aggregate of the amounts of increased retirement pensions, multiplied by the factor specified in paragraph 21, specified in previous elections.

21. For the purposes of paragraph 20 the factor is RI/RE where—

RI is the retail prices index for the month of April in the financial year before the financial years in which the new election is made, and

RE is the retail prices index for the month of April in the financial year before the financial year in which the start date in relation to the previous election in question fell (or the index for April 2007, where the start date in relation to that election fell in the financial year starting on 1st April 2007 and ending on the 31st March 2008).

22. Where a previous election has been revoked the references in paragraph 20 to the amount of an increased retirement pension specified in a previous election shall be taken as the amount of an increased pension with which a teacher has been credited pursuant to regulation 26.

Determination of contributions for given level of increased pension

23. The Scottish Ministers shall from time to time determine the amount of monthly payments of contributions or lump sum payment of contributions required for any given amount of increased retirement pension and different amounts may be specified—

- (a) in relation to different classes or descriptions of persons; and
- (b) depending on whether the election is one specified in paragraph 5(a) or 12(a) or in paragraph 5(b) or 12(b),

and, where additional contributions are paid in monthly payments, different amounts may be determined depending on the length of the contribution period.

24. Where the Scottish Ministers have, pursuant to paragraph 23, determined any amount of monthly payments of contributions or lump sum payment of contributions required for any given level of increased retirement pension the Scottish Ministers may at any time redetermine any of the amounts previously determined, and where any amounts are redetermined during a period when the teacher is paying monthly contributions the teacher shall, from 1st April following the date of the redetermination, pay the monthly payments in accordance with the redetermination but without prejudice to paragraph 25 (revocation of election) or to any right of the teacher to make a further election.

Revocation of election

25. A teacher who has made a monthly contribution election may revoke the election before the end of the payment period.

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26. Where an election is revoked the teacher shall be credited with additional benefits of an amount, determined by the Scottish Ministers, having regard to the contributions paid before the revocation.

Election ceasing to have effect

27. An election which states that the additional contributions are to be paid in a single lump sum ceases to have effect if—

- (a) the payment of contributions is not received by the Scottish Ministers within one month after the date on which the Scottish Ministers notified the teacher making the election that the election had been accepted; or
- (b) the payment of contributions is received by the Scottish Ministers after the teacher in respect of whom the election is made attains the normal pension age.

Teacher ceasing to be in pensionable employment

28.—(1) Where a teacher who has made a monthly contribution election ceases to be in pensionable employment before the end of the payment period and does not again enter pensionable employment within one month the teacher may (except where paragraph 29 applies)—

- (a) pay to the Scottish Ministers a lump sum of such amount, determined by them, so that he or she may be credited with the amount of additional benefits specified in the election; or
- (b) elect to be credited with an amount of additional benefits, determined by the Scottish Ministers, having regard to the contributions paid before he or she ceased to be in pensionable employment.

(2) Where the lump sum referred to in sub-paragraph (1)(a) is not received by the Scottish Ministers within one month after the date on which the teacher ceased to be in pensionable employment, the teacher is treated as having elected to be credited with additional benefits under sub-paragraph (1)(b).

Teacher becoming entitled to retirement benefits

29. Where a teacher who has made a monthly contribution election becomes entitled to retirement benefits by virtue of regulation E6(6) or (7) before the end of the payment period the teacher shall be credited with an amount of additional benefits, determined by the Scottish Ministers, having regard to the contributions paid before he or she became entitled to retirement benefits.

Teacher making an election under regulation E6A

30. Where a teacher who has made a monthly contribution election makes an election under paragraph (11) of regulation E6A (phased retirement) before the end of the payment period the teacher is credited with an amount of additional benefits, determined by the Government Actuary, having regard to the contributions paid before the date on which the first payment of additional benefits was made.

Teacher becoming incapacitated

31. Where a teacher becomes entitled to payment of retirement benefits by reason of his or her having become incapacitated within one year after the date on which the election was made—

- (a) where contributions have been made by the teacher pursuant to an election made by him or her those contributions shall be repaid to the teacher; and

(b) where contributions have been made by the teacher's employer pursuant by an election made by the employer those contributions shall be repaid to the employer, but in either event the teacher will not be credited with any additional benefits.

32.—(1) Where a teacher who has made a monthly contribution election becomes entitled to payment of retirement benefits by reason of his or her having become incapacitated more than one year after the date on which the election was made but before the end of the payment period the teacher shall nevertheless be credited, pursuant to paragraph 17, with the amount of additional benefits specified in the election unless paragraph (2) applies.

(2) Where a teacher falls within paragraph (1) but the declaration required by paragraph 8 or 13 was not made in good faith the teacher shall be credited with an amount of additional benefits determined by the Scottish Ministers, having regard to the contributions paid before the date on which he or she became entitled to the payment of retirement benefits.

Teacher ceasing to be incapacitated

33.—(1) This paragraph applies where a teacher has become entitled to payment of retirement benefits by virtue of regulation E6(5) (incapacity) and subsequently ceases to be incapacitated (so that by virtue of regulation E17A(8) the increased retirement pension with which the teacher was credited pursuant to paragraph 32(1) ceases to be payable).

(2) Where this paragraph applies the teacher shall be credited with an amount of additional benefits determined by the Scottish Ministers having regard to—

- (a) the contributions paid before he or she became entitled to payment of retirement benefits by virtue of regulation E6(5); and
- (b) the contributions which would have been paid during the period when he or she was entitled to payment of those retirement benefits, if he or she had continued to pay monthly contributions during that period.

Death of teacher

34. Paragraphs 35 and 36 apply where the election is an election, pursuant to paragraph 5(b) or (where applicable) 12(b) for increased benefits to be paid to the teacher's dependants (as well as for an increased retirement pension).

35. Where the teacher dies within one year after the date on which the election was made—

- (a) where the contributions were made by the teacher pursuant to an election made by him or her those contributions shall be repaid to the teacher's personal representatives; and
- (b) where the contributions were made by the teacher's employer pursuant to an election made by the employer, those contributions shall be repaid to the employer,

but in either event there shall be no credit relating to increased benefits for the teacher's dependants.

36.—(1) Where the teacher has made a monthly contribution election and dies more than one year after the date on which the election was accepted, but before the end of the payment period, there shall nevertheless be a credit, pursuant to paragraph 17, relating to increased benefits for the teacher's dependants as specified in the election, unless paragraph (2) applies.

(2) Where the teacher falls within paragraph (1) but the declaration required by paragraph 8 or 13 was not made in good faith there shall be a credit relating to increased benefits for the teacher's dependants of an amount determined by the Scottish Ministers having regard to the contributions paid before the date of the teacher's death.

Actuarial advice

37. The Scottish Ministers shall take advice from the Government Actuary before determining any amount pursuant to paragraphs 23, 24, 26, 28(1), 29, 30, 32(2), 33(2) or 36(2).”.

SCHEDULE 2

Regulation 83

Transitional Provisions and Savings

PART 1

Transitional Provisions and Savings relating to the Teachers' Superannuation (Scotland) Regulations 2005

1. In this Schedule “the Superannuation Regulations” means the Teachers' Superannuation (Scotland) Regulations 2005.

2. Where, before 1st April 2007, a teacher aged 70 or over was in employment which would have been pensionable but for regulation B6(1) of the Superannuation Regulations, the amendment made to that provision by regulation 5(2) of these Regulations does not have the effect of making pensionable any employment which occurred before 1st April 2007 but after the teacher was age 70.

3. Paragraph (11) of regulation C5 (additional contributions to purchase added years) of the Superannuation Regulations shall (despite regulation 12 of these Regulations) continue to have effect in relation to any election made under that regulation before 1st April 2007.

4.—(1) Regulation C6 (additional contributions to purchase past added years in the case of a deceased teacher) of the Superannuation Regulations shall (despite regulation 12 of these Regulations) continue to have effect in relation to any teacher who died before 1st April 2007.

(2) Where that regulation continues to have effect references in that regulation to regulation C5 shall have effect as references to old regulation C5.

5.—(1) Regulation C8 (additional contributions to purchase current added years) of the Superannuation Regulations shall (despite regulation 14 of these Regulations) continue to have effect in relation to any teacher who left pensionable employment before 1st April 2007.

(2) Where a teacher left pensionable employment before 1st April 2007 but has not made an election before that date that regulation shall have effect as if for paragraph (10) there were substituted—

“(10) An election under this regulation must be made by giving written notice to the Scottish Ministers which must specify the period and must be given before 31st March 2007.”.

(3) Where regulation C8 of the Superannuation Regulations continues to have effect by virtue of sub-paragraph (1)—

(a) paragraph (7) of that regulation shall have effect as if for sub-paragraph (b) there were substituted—

“(b) the percentage is the aggregate of the rate of contributions specified under regulation C3(2) and the required percentage determined in accordance with regulation H3.”; and

- (b) paragraphs 1 and 2 of Schedule 3 to the Superannuation Regulations shall continue to apply for the purpose of determining the maximum length of the period in respect of which any election may be made.

6.—(1) Regulation E14 (allocation of part of retirement pension) of, and Schedule 11 to, the Superannuation Regulations shall (despite regulations 34 and 81 of these Regulations) continue to have effect where a declaration was delivered to the Scottish Ministers pursuant to regulation E14(4) of the Superannuation Regulations before 1st April 2007.

(2) Where the provisions mentioned in sub-paragraph (1) continue to have effect by virtue of that sub-paragraph, regulations E18(2) of the Superannuation Regulations shall have effect without the amendments made by regulation 38(3) and (4)(c) of these Regulations.

7.—(1) Regulation E34 (pensionable salary) of the Superannuation Regulations shall continue to have effect without the amendments made by regulation 54 of these Regulations for the purpose of determining the pensionable salary of a teacher where—

- (a) the teacher’s entitlement to payment of retirement benefits took effect before April 2007; or
- (b) (where the teacher does not fall within sub-paragraph (1)(a)) the teacher ceased to be in pensionable employment before 1st April 2007 and is not at any time in pensionable employment on or after that date before attaining the age of 60.

(2) For the purposes of sub-paragraph (1), a teacher is to be treated as being in pensionable employment during any period for which he or she is paying additional contributions under old regulation C8 or regulation C9 of the Superannuation Regulations.

(3) Where the entitlement of a teacher (other than a teacher falling within sub-paragraph (1)(b)) to payment of retirement benefits took effect on or after 1st April 2007 but before 1st April 2009 the pensionable salary of that teacher shall be the greater of—

- (a) the pensionable salary determined in accordance with regulation E34, or, where applicable, regulation E34A of the Superannuation Regulations; and
- (b) the pensionable salary determined in accordance with regulation E34 of the Superannuation Regulations without the amendments made by regulation 54 of these Regulations.

8. Where, before 1st April 2007, a teacher was in pensionable employment and would but for regulation E35(2)(b) of the Superannuation Regulations have reckonable service in excess of 40 years before attaining the age of 60, the amendment to regulation E35(2) of the Superannuation Regulations made by regulation 56 of these Regulations does not have the effect of increasing reckonable service undertaken before 1st April 2007.

PART 2

Transitional Provisions and Savings relating to the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996

9. In this Part “the 1996 Regulations” means the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996.

10.—(1) Regulation 6 (allocation of part of annual compensation) of the 1996 Regulations shall (despite regulation 88 of these Regulations) continue to have effect where a declaration was delivered to the compensating authority (within the meaning of regulation 19A(1) of the 1996 Regulations) pursuant to paragraph (2) of that regulation before 1st April 2007.

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- (2) Where regulation 6 of the 1996 Regulations continues to have effect pursuant to sub paragraph (1)–
- (a) the references in regulation 6(1)(a) and (2) of the 1996 Regulations to regulation E12 and E5(1)(f) respectively of the Superannuation Regulations shall have effect as references to regulations E14 and E6(6) of the Superannuation Regulations respectively; and
 - (b) regulation 8(3) of the 1996 Regulations shall have effect without the amendment made by regulation 90.

PART 3

Transitional and Savings Provision relating to the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995

11. Any notice given before 1st April 2007 under regulation 12(6) of the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995 shall be treated as having been given under that regulation as substituted by regulation 108(5) of these Regulations.