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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 217**

**The Teachers' Pension Scheme (Scotland) Regulations 2014**

**PART 3**

**Scheme membership**

**CHAPTER 3**

**Pensionable service**

*SECTION 1*

*General provisions*

**Service not pensionable unless member is entitled to pay**

**22.**—(1) A person (P) in an eligible employment is not in pensionable service in relation to that employment unless P is entitled to be paid—

- (a) P's salary in respect of that employment;
- (b) if P is on adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave—
  - (i) at least half P's salary in respect of that employment; or
  - (ii) statutory pay; or
- (c) if P is on sick leave, at least half P's salary in respect of that employment.

(2) P is not in pensionable service in relation to an employment during a period of non-pensionable family leave, non-pensionable sick leave or unpaid leave from that employment.

**Service not pensionable unless members' contributions are paid**

**23.**—(1) The scheme manager may decide that a period of service in respect of which a member's contributions are not paid is not a period of pensionable service if—

- (a) the scheme manager has sent the member a demand under regulation 188 ("the demand") in respect of those contributions; and
- (b) within 3 years after the date of the demand, the member has not paid the whole of the amount and interest stated in the demand.

(2) The period of service is not a period of pensionable service if the scheme manager—

- (a) gives the member written notice to that effect; and
- (b) repays the member any amount paid in part satisfaction of the demand.

## SECTION 2

### *Service in Her Majesty's armed forces*

#### **Pensionable service – armed forces service**

**24.** For the purpose of these Regulations, a person is in pensionable service during any period of permanent service in the armed forces in respect of which an election under regulation 25 has effect or is taken to have effect.

#### **Election for armed forces service to be pensionable**

**25.—**(1) This regulation applies in relation to an active member (P) who is called out, or recalled, for permanent service in Her Majesty's armed forces under a call-out notice served, or a call-out or recall order made, under the Reserve Forces Act 1996(1).

(2) P may by written notice to the scheme manager elect to treat the period of permanent service as pensionable service.

(3) For the purpose of these Regulations, P leaves all pensionable service from the beginning of the period of permanent service if P does not make an election within 6 months after the period of permanent service ends.

(4) If P makes an election, the scheme manager must give P a written notice setting out the contributions payable in respect of the period of permanent service.

(5) The election has effect from the beginning of the period of permanent service if—

- (a) P pays the contributions by lump sum within 3 months after receiving the notice; or
- (b) P pays contributions by monthly payments in accordance with regulation 181 in respect of the whole period.

(6) If P only pays contributions in respect of part of the period of permanent service, the election has effect only in respect of that part of the period.

(7) In this regulation, a period of permanent service begins when P is called out or recalled and ends on whichever is the earlier of—

- (a) the day on which P's permanent service ends; or
- (b) the day on which P begins to accrue benefits under the Armed Forces Pension Scheme or any other occupational pension scheme in respect of P's permanent service.

(8) If P dies while in permanent service and P has not made an election—

- (a) P is taken to have made an election;
- (b) any contributions payable are to be deducted from any benefits payable under these Regulations; and
- (c) the election is taken to have effect from the beginning of the period of permanent service.

## SECTION 3

### *Pensionable service on or after automatic enrolment date*

#### **Pensionable service on or after automatic enrolment date**

**26.—**(1) This Section applies in relation to a person (P) who—

- (a) is eligible to be an active member of this scheme; and

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(1) 1996 c.14.

(b) is in an eligible employment on or after P’s automatic enrolment date for that employment.

(2) P is in pensionable service in relation to that employment if the employment is mentioned in Part 2 of Schedule 1 and an opt-out notice under this Section does not have effect in relation to service in that employment.

### **Opting out of this scheme after automatic enrolment date**

**27.**—(1) A person (P) opts out of this scheme in relation to service in an eligible employment if P opts not to be an active member of this scheme in relation to that service.

(2) P may only exercise this option by written notice to the scheme manager in a form required by the scheme manager (“opt-in notice”).

(3) An opt-out notice has effect as follows—

- (a) if the scheme manager receives the opt-out notice within 3 months after P enters the employment, from the first day of the employment;
- (b) if sub-paragraph (a) does not apply and the scheme manager receives the opt-out notice within 3 months after P’s automatic enrolment date for the employment, from P’s automatic enrolment date;
- (c) if neither sub-paragraph (a) nor (b) applies and the scheme manager receives the opt-out notice within 3 months after P’s automatic re-enrolment date, from P’s automatic re-enrolment date;
- (d) otherwise, from the first day of the month after the month in which the scheme manager receives the opt-out notice.

(4) An opt-out notice ceases to have effect from the earlier of—

- (a) the date on which a subsequent opt-in notice has effect in relation to service in that employment; and
- (b) P’s automatic enrolment date for that employment.

### **Opting into this scheme after automatic enrolment date**

**28.**—(1) A person (P) opts into this scheme in relation to service in an eligible employment if P opts to become an active member of this scheme in relation to service in that employment.

(2) P may only exercise the option by written notice to the scheme manager in a form required by the scheme manager (“opt-in notice”).

(3) P may opt into this scheme in relation to service in an employment if the employment is mentioned in Part 2 of Schedule 1, and P has previously opted out of this scheme in relation to service in that employment.

(4) For an employment mentioned in Part 2 of Schedule 1, an opt-in notice has effect—

- (a) if the scheme manager receives the opt-in notice not later than 3 months after P enters the employment, from the first day of the employment; or
- (b) if sub-paragraph (a) does not apply, from the first day of the month after the month in which the scheme manager receives the opt-in notice.

(5) An opt-in notice ceases to have effect from the date on which a subsequent opt-out notice has effect.

## SECTION 4

### *Pensionable service before automatic enrolment date*

#### **Pensionable service before automatic enrolment date**

**29.**—(1) This Section applies in relation to a person (P) who—

- (a) is eligible to be an active member of this scheme; and
- (b) is in an eligible employment before P’s automatic enrolment date for that employment.

(2) P is in pensionable service in relation to that employment if the employment is mentioned in Part 2 of Schedule 1 and an opt-out notice under this Section does not have effect in relation to service in that employment.

#### **Opting out of this scheme before automatic enrolment date**

**30.**—(1) A person (P) opts out of this scheme in relation to service in an eligible employment if P opts not to be an active member of this scheme in relation to that service.

(2) P may only exercise the option by written notice to the scheme manager in a form required by the scheme manager (“opt-out notice”).

- (3) An opt-out notice has effect—
  - (a) if the scheme manager receives the opt-out notice no later than 3 months after P enters the employment, from the first day of the employment; or
  - (b) otherwise, from the first day of the month after the month in which the scheme manager receives the opt-out notice.
- (4) An opt-out notice ceases to have effect from the earlier of—
  - (a) the date on which a subsequent opt-in notice has effect; and
  - (b) P’s automatic enrolment date for that employment.

#### **Opting into this scheme before automatic enrolment date**

**31.**—(1) A person (P) opts into this scheme in relation to service in an eligible employment if P opts to become an active member of this scheme in relation to service in that employment.

(2) P may only exercise the option by written notice to the scheme manager in a form required by the scheme manager (“opt-in notice”).

(3) P may opt into this scheme in relation to service in an employment if the employment is mentioned in Part 2 of Schedule 1 and an opt-out notice has effect.

- (4) For an employment mentioned in Part 2 of Schedule 1, an opt-in notice has effect—
  - (a) if the scheme manager receives the opt-in notice not later than 3 months after P enters the employment, from the first day of the employment; or
  - (b) if sub-paragraph (a) does not apply, from the first day of the month after the month in which the scheme manager receives the opt-in notice.

(5) An opt-in notice ceases to have effect from the date on which a subsequent opt-out notice has effect.