
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 292

**The Teachers' Pension Scheme
(Scotland) (No. 2) Regulations 2014**

PART 5

Retirement benefits for teachers

CHAPTER 6

Ill health retirement

SECTION 3

Total incapacity pension

Meaning of “entitlement day” (total incapacity pension)

112. The entitlement day for a total incapacity pension payable with an ill-health pension is the same as the entitlement day for the ill-health pension.

Entitlement to total incapacity pension

- 113.**—(1) A total incapacity pension is payable to a person (P) from the entitlement day if—
- (a) P is entitled to an ill-health pension because the scheme manager is satisfied that P meets the incapacity condition;
 - (b) P has applied under regulation 159 for payment of an ill-health pension and a total incapacity pension; and
 - (c) the scheme manager is satisfied after consideration of a medical report that P meets the total incapacity condition.
- (2) A total incapacity pension is not payable to P if—
- (a) P left an eligible employment for a reason other than because P was incapacitated; or
 - (b) P made the ill-health application—
 - (i) after leaving all eligible employment; and
 - (ii) more than 2 years after the last day of pensionable service.
- (3) Except as provided in regulation 115, the total incapacity pension is payable for life.

Annual rate of total incapacity pension

114.—(1) The annual rate of total incapacity pension payable to a person (P) is—

$$\frac{PS}{2} \times \frac{AR}{57}$$

where—

AR means P’s annual rate of pensionable earnings—

- (i) as at the last day of pensionable service; or
- (ii) if P applies for a total incapacity pension while P is in stepped down employment, as at the day before P’s annual rate of pensionable earnings was first reduced under paragraph (2);

PS means P’s prospective service (in years and fractions of a year);

“P’s prospective service” means the period beginning with the day after the entitlement day and ending on the day on which P would have reached prospective normal pension age.

(2) P is in stepped down employment if—

- (a) P is in an eligible employment;
- (b) the terms of that employment are changed wholly or partly because of P’s ill-health;
- (c) as a result of the changed terms of employment, P’s annual rate of pensionable earnings is reduced.

(3) For the purpose of paragraph (ii) of the definition of AR, P’s annual rate of pensionable earnings is increased by the amount (if any) by which it would have been increased if it had been an official pension within the meaning of section 5(1) of PIA 1971—

- (a) beginning, and first qualifying for increases under that Act, on the day after the day on which P’s annual rate of pensionable earnings is reduced; and
- (b) ending on the day on which the scheme manager receives P’s application for the total incapacity pension.

Cessation of total incapacity pension

115.—(1) A total incapacity pension ceases to be payable to a person (P) on the date on which P’s ability to carry out any work ceases to be impaired by more than 90%.

(2) For the purpose of paragraph (1), P’s ability to carry out any work ceases to be impaired by more than 90% on the earliest of the following dates—

- (a) the date on which P re-enters eligible employment;
- (b) the date on which P engages in any work as a teacher which is not an eligible employment;
- (c) the date on which P engages in any other form of work unless—
 - (i) P provides the scheme manager with a certificate from a registered medical practitioner stating that, in the opinion of the practitioner, P continues to meet the total incapacity condition despite engaging in such work; and
 - (ii) the scheme manager is satisfied that P continues to meet that condition despite engaging in such work.

(3) A total incapacity pension does not cease to be payable on that date if P has reached normal pension age.