SCOTTISH STATUTORY INSTRUMENTS

2017 No. 283

The Teachers' Superannuation and Pension Scheme (Additional Voluntary Contributions) (Scotland) Regulations 2017

Retirement and dependants' pensions

12.—(1) In this regulation "the relevant date", in relation to a contributor or participator, means—

(a) in the case of a person who applies for benefits in pensionable service under the 2005 Regulations, the date the person attains the age of 55;

(b) in the case of a person who applies for benefits in pensionable service under the 2014 Regulations, the date the person attains normal minimum pension age as defined in regulation 3 of the 2014 regulations;

unless the circumstance in paragraph (10) occurs before that date.

(2) The benefits that may be provided at any time after the relevant date in accordance with paragraph (8) are—

(a) one or more retirement pensions;

(b) one or more dependants' pensions;

(c) one or more pension commencement lump sums;

(d) on and from 6th April 2015 onwards, one or more uncrystallised fund pension lump sums.

(3) A retirement pension is a pension commencing not earlier than the relevant date and is payable to the contributor or participator for life.

(4) A dependant's pension is a pension which would become payable to a dependant on the death of the participator after payment of benefits has commenced as provided in paragraph (2) and is payable for life, except that, in the case of a dependant who is a teacher's child as defined in regulation E26 of the 2005 Regulations or an eligible child in accordance with regulation 134 of the 2014 Regulations, it shall cease to be payable when that person ceases to be a child within the meaning of those regulations.

(5) A pension policy purchased as described in paragraph (8) shall not provide for any retirement pension or dependant's pension capable in whole or in part of surrender, commutation or assignation (except as provided by paragraphs (9) and (10)).

(6) A contributor or participator may in respect of some or all of the investments made under regulation 9(1) or 10(2), at any time, but not earlier than one month before the relevant date, by giving written notice to the Scottish Ministers make a benefits election which may specify—

(a) whether any retirement pension is to be provided;

(b) for whom, if anyone, dependant's pensions are to be provided;

(c) if more than one pension is to be provided—

(i) the proportion of the amount secured by the investments made under regulation 9(1) or 10(2) that is to be applied to the purchase of each of them; or

(ii) the dependants' pensions to be provided expressed as a percentage of the retirement pension;

(d) in respect of every pension to be provided, whether the annual rate of the pension—

(i) is to be fixed;

(ii) is to vary in accordance with the Index;

(iii) is to increase yearly by a specified percentage;

(iv) where the authorised provider offers pensions which vary in accordance with an index of prices other than the Index, is to vary in accordance with the index specified in the notice; or

(v) is to be an Investment Linked Pension;

(e) the authorised provider who is to provide each pension;

(f) whether a pension commencement lump sum is to be paid, and if so, the amount of such sum; and

(g) whether an uncrystallised fund pension lump sum is to be paid and, if so, the amount of such payment.

(7) In the case of a retirement pension, the notice may also specify that, if the participator dies within a period specified in the notice of a duration permitted by schedule 28 of the 2004 Act beginning when the retirement pension commences, the pension shall continue to be paid during the remainder of that period to such person as the authorised provider or the Scottish Ministers, where they are liable to make payments of the pension pursuant to regulation 16(2), determines or determine.

(8) Subject to paragraphs (9) and (10), upon receipt of the notice of election, the Scottish Ministers shall, as soon as is reasonable practicable, realise some or all of the investments made under regulation 9(1) or 10(2) and—

(a) out of the amount obtained—

(i) make any payment of a pension commencement lump sum in accordance with the election; and

(ii) apply the balance of the amount obtained to the purchase of a pension policy from an authorised provider chosen by the contributor or participator to provide the benefits specified in the election; or

(b) pay an uncrystallised fund pension lump sum.

(9) The remaining investments shall be realised and become payable as a lump sum if the participator dies—

(a) before the relevant date; or

(b) after the relevant date and before all the investments made under regulation 9(1) and 10(2) have been realised in accordance with one or more elections under paragraph (6) or applications under regulation 11(1).

(10) In the case of a retirement pension, where there are exceptional circumstances of serious ill-health affecting the participator, the Scottish Ministers may realise the investments without purchasing any pension and in that event the amount becomes payable as a lump sum.

(11) The authorised provider may discharge the liability for payment of the benefits under the pension policy by payment of a lump sum representing their capital value if such a lump sum would be defined in regulation 2(Z)(b) of the Registered Pension Schemes (Authorised Payments) Regulations 2009(**1**).

(**1**) S.I. 2009/1171.