

1978 No. 1507 (S. 138)

EDUCATION, SCOTLAND

The Teachers' Superannuation (Scotland) Amendment Regulations
1978

<i>Made</i> - - - - -	3rd October 1978
<i>Laid before Parliament</i>	31st October 1978
<i>Coming into Operation</i>	22nd November 1978

In exercise of the powers conferred on me by sections 9 and 12(1) of the Superannuation Act 1972^(a) and of all other powers enabling me in that behalf, with the consent of the Minister for the Civil Service and after consultation with representatives of education authorities and of teachers and with such representatives of other persons likely to be affected as appear to me to be appropriate, I hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Teachers' Superannuation (Scotland) Amendment Regulations 1978, and the Teachers' Superannuation (Scotland) Regulations 1977^(b), the Teachers' Superannuation (Scotland) Amendment Regulations 1977^(c) and these regulations may be cited together as the Teachers' Superannuation (Scotland) Regulations 1977 to 1978.

(2) These regulations shall come into operation on 22nd November 1978 and shall have effect from 6th April 1978.

(3) In these regulations any reference to a regulation or Part not otherwise identified is to be construed as a reference to the appropriate regulation or Part of the Teachers' Superannuation (Scotland) Regulations 1977 as amended by the Teachers' Superannuation (Scotland) Amendment Regulations 1977.

(4) The Interpretation Act 1889^(d) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Definitions

2.—(1) In regulation 3(1)—

(a) after the definition of "service counting for benefit" there shall be inserted the following definition:—

“ “state pension age” means, in the case of a man, the age of 65 years and, in the case of a woman, the age of 60 years;”;

(b) at the end of the definition of "widow" the semi-colon shall be deleted and there shall be added the words "unless that date was after 5th April 1978;".

(a) 1972 c. 11.

(b) S.I. 1977/1360.

(c) S.I. 1977/1808.

(d) 1889 c. 63.

(2) In regulation 3 the following paragraph shall be added:—

“(6) In these regulations the following expressions shall have the meanings respectively which they have for the purposes of the Social Security Pensions Act 1975(a)—

- “contracted-out scheme”;
- “contributions equivalent premium”;
- “guaranteed minimum” and “guaranteed minimum pension”;
- “qualifying service”.”.

Return of contributions on cessation of employment

3. In regulation 39 paragraph (1) shall be deleted and the following paragraph shall be substituted:—

“(1) A teacher shall be entitled on the expiry of the period specified in sub-paragraph (c) to have returned the balance of his contributions calculated as at the date of return in accordance with regulation 42, reduced by a sum equal to the tax chargeable on that balance under paragraph 2 of Part II of Schedule 5 to the Finance Act 1970(b) (charge to tax on repayment of employee’s contributions), if before attaining the age of 70 he has ceased or ceases to be employed in reckonable service and the following conditions apply—

- (a) (i) subject to sub-paragraph (iii) he is not entitled to benefit; or
- (ii) he has not been employed after 31st March 1972 in reckonable service for, or in periods of reckonable service amounting in aggregate to, 5 years; or
- (iii) subject to regulation 42(10), he is, or would if he had attained the age of 60, be entitled to retiring allowances under regulation 46(1)(d); and

(b) since he ceased to be employed in reckonable service a transfer value in respect of him has neither been paid, nor is payable, by the Secretary of State under interchange provisions; and

(c) he continues not to be employed in reckonable service for at least 3 months or such shorter period as (in special circumstances) may be approved by the Secretary of State; and

(d) the period mentioned in sub-paragraph (c) is not a period of absence in respect of which contributions for current added years are being paid under Part III.”.

Calculation for purposes of regulations 39 to 41

4. In regulation 42 the following paragraph shall be added:—

“(10) In the case of a teacher to whom regulation 46(1)(d) applies no account shall be taken of contributions in respect of reckonable service after 5th April 1978.”.

Limited returns to pensioners

5.—(1) For the heading to regulation 45 (Return to pensioners after further service) there shall be substituted the heading “Limited returns to pensioners”.

(2) Regulation 45 shall become regulation 45(1) and the following paragraph shall be added:—

“(2) Where a teacher—

- (a) entitled to or qualified for allowances by virtue only of regulation 46(1)(e) would otherwise be entitled to a return of contributions under regulations 39 or 40; and

(a) 1975 c. 60.

(b) 1970 c. 24.

(b) whose reckonable service includes earlier service which is not taken into account in consequence of regulation 49(2)(d)(iii) he shall be entitled to a return of contributions in respect of that earlier service and regulation 43(1)(a) and (b) shall be construed accordingly.”.

Guaranteed minimum pension

6. After Part V there shall be inserted the following Part:—

“PART VA

SPECIAL PROVISION CONSEQUENTIAL TO THE SOCIAL SECURITY
PENSIONS ACT 1975

Guaranteed minimum pension

45A.—(1) This regulation shall override any other provisions of these regulations which are inconsistent with it except the provisions of regulation 60 (in regard to abatement, for any period expiring within 5 years of the teacher attaining state pension age), and regulation 87(a) and (b).

(2) If a teacher has a guaranteed minimum in relation to his annual pension for him under these regulations he shall be entitled to receive from state pension age an annual pension payable at a rate equivalent to a weekly rate of not less than that guaranteed minimum, and if he dies and leaves a widow she shall be entitled to receive a long-term pension which shall not be less than half of that guaranteed minimum.

(3) If the commencement of any teacher’s guaranteed minimum pension is postponed for any period his guaranteed minimum shall be increased to the extent, if any, specified in section 35(6) of the Social Security Pensions Act 1975.”.

Entitlement to retiring allowances

7. At the end of regulation 46(1)(c) a semi-colon followed by the word “or” shall be substituted for the full stop and the following sub-paragraphs shall be added:—

- “(d) was in reckonable service on or after 6th April 1978 and who is not entitled to retiring allowances under sub-paragraphs (a), (b) or (c) but who has 5 years’ qualifying service; or
- (e) not being such a person as aforesaid, has been employed in reckonable service during a period in respect of which he has a guaranteed minimum pension being a period in respect of which a contributions equivalent premium cannot be paid.”.

Reckonable service for entitlement and for benefit

8. In regulation 49—

(1) For sub-paragraph (1)(a) there shall be substituted the following sub-paragraph:—

“(a) a teacher shall be treated as having been employed in reckonable service—

- (i) during any period which is treated as reckonable service by virtue of payment of contributions for current added years under Part III; or
- (ii) during any period of absence wholly or partly on account of pregnancy or confinement so long as the teacher enjoys the right to return to work under sections 48 and 49 of the Employment Protection Act 1975(a) or sections 45 and 47 of the Employment Protection (Consolidation) Act 1978(b);”.

(a) 1975 c. 71.

(b) 1978 c. 44.

- (2) After sub-paragraph (2)(c) there shall be inserted the following sub-paragraph:—

“(cc) where a teacher is entitled to retiring allowances by virtue of regulation 46(1)(d) there shall be disregarded any period of service before 6th April 1978;”.

- (3) At the end of sub-paragraph (2)(d)(ii) the word “or” shall be substituted for the word “and” and the following sub-paragraphs shall be added:—

“(iii) where the teacher has qualified for retiring allowances by virtue of regulation 46(1)(e) any reckonable service before 6th April 1978 which is not continuous with reckonable service on or after that date; or

(iv) any period to which sub-paragraph (1)(a)(ii) applies during which the teacher is not entitled to at least half pay.”.

Amount of annual pension

9.—(1) Regulation 52 shall become regulation 52(1) and after the words “Subject to” there shall be inserted the words “paragraph (2) and”.

- (2) After the said regulation 52(1) the following paragraph shall be added:—

“(2) In the case of a teacher in respect of whom a contributions equivalent premium has been paid and not refunded the annual pension shall be reduced by an amount equal to the guaranteed minimum pension which would have been payable to him had the contributions equivalent premium not been paid.”.

Benefits after further service

10.—(1) In regulation 59(1) after the word “payable” where it first occurs there shall be inserted the words “under regulation 46”.

- (2) In both paragraphs (1) and (4) of regulation 59 the words “for not less than 365 days” shall be deleted.

Abatement of annual pension

11. In regulation 60(3) after the word “shall” where it first occurs there shall be inserted a comma and the words “subject to regulation 45A,”.

Short-term pensions

12. In regulation 63—

- (1) At the beginning of both paragraphs (2) and (3) there shall be inserted the words “Subject to paragraph (4)”.

- (2) After paragraph (3) there shall be added the following paragraph:—

“(4) Paragraph 2(b) shall not apply in the case of a retired teacher to whom regulation 64(1A) applies.”.

Long-term pensions

13. In regulation 64—

- (1) After paragraph (1) the following paragraph shall be inserted:—

“(1A) A long-term pension shall be paid in accordance with table 1 of Schedule 8 on the death of a teacher whose reckonable service counting for benefit comprises or includes such service as is mentioned in regulation 46(1)(e).”.

(2) For paragraph (5) there shall be substituted the following paragraph—

“(5) Subject to paragraph (6) any pension payable to a person under this Part shall cease to be paid, unless the Secretary of State otherwise directs, upon that person marrying or commencing to live with a man as his wife or with a woman as her husband; but any such pension which has ceased to be payable by reason of marriage or living together may, if the Secretary of State so decides, be paid upon the person again becoming a widow or widower or on the termination of the last marriage or, as the case may be, of the living together.”.

(3) Paragraph (6) shall be re-numbered (9) and there shall be inserted the following paragraphs:—

“(6) Notwithstanding the provisions of paragraph (5), the widow of a teacher shall be entitled to receive payment of her guaranteed minimum pension for any such period as is mentioned in section 36(6) of the Social Security Pensions Act 1975.

(7) In the case of a teacher in respect of whom a contributions equivalent premium has been paid and not refunded, the long-term pension shall be reduced by an amount equal to half the guaranteed minimum pension which would have been payable to the teacher had the contributions equivalent premium not been paid.

(8) Notwithstanding the provisions of this regulation and Schedules 8 and 9, in the case of a widow of a teacher who was employed in reckonable service after 5th April 1978, where the marriage took place after the day on which the teacher was last employed in reckonable service, the reckonable service counting for benefit shall be the reckonable service after 5th April 1978.”.

Payment of transfer values

14. For regulation 72(1) there shall be substituted the following provisions:—

“72.—(1) Where a former teacher, having ceased to be employed in reckonable service, becomes subject to a superannuation scheme, being (subject to paragraph (1A)) a contracted-out scheme then, on an application being made with his consent—

- (a) within 6 months from the day when he became subject to the superannuation scheme; and
- (b) by the person responsible for the management of the superannuation scheme,

the Secretary of State may pay to that person a transfer value (calculated in accordance with Part I of Schedule 10) in respect of the teacher.

(1A) The superannuation scheme need not be a contracted-out scheme if the teacher—

- (a) has less than 5 years' reckonable service; or
- (b) ceased to be employed in such service before 6th April 1978; or
- (c) is a married woman or widow who, by virtue of an election made or treated as made for the purposes of regulations under section 3 of the Social Security Pensions Act 1975, is either liable to pay primary Class 1 contributions or Class 2 contributions (within the meaning of the Social Security Act 1975(a)) at a reduced rate prescribed by such regulations or is exempt from liability to pay Class 2 contributions.”.

Commutation of benefits

15. After regulation 84 there shall be added the following regulation:—

“Commutation of benefits

84A.—(1) Subject to paragraph (2) where any benefit payable under these regulations by way of a retiring allowance or family pension is an annual sum of an amount not exceeding £39, the Secretary of State may discharge his liability in respect thereof by the payment of a lump sum representing the capital value of that annual sum.

(2) Paragraph (1) shall not apply in relation to a retiring allowance or family pension payable to a person unless the person became entitled to receive payment of such benefit on or after attaining state pension age.”.

Forfeiture of benefits

16. At the beginning of regulation 87 there shall be inserted the words “Subject to regulation 45A,”.

Schedule 7 (Short-term pensions)

17. The following note shall be added to the notes following table 3 to Schedule 7:—

“4. In relation to a teacher to whom regulation 64(1A) applies the words “5 or more years’ service counting for benefit under Schedule 9” shall be omitted from table 2 and the words “with 5 or more years’ service counting for benefit under Schedule 9” shall be omitted from table 3.”.

Schedule 8 (Amount of adults’ long-term pension)

18. The note to table 1 of Schedule 8 shall be “note 1” and the following notes shall be added:—

“2. In the case of a teacher in respect of whom a contributions equivalent premium has been paid and not refunded regulation 64(7) shall apply.

3. If the teacher was employed after 5th April 1978 and his marriage took place after his leaving reckonable service, regulation 64(8) shall apply.”.

Schedule 10 (Transfer values)

19. In Schedule 10—

(1) In paragraph 1 after the words “any teacher shall” there shall be inserted the words “subject to paragraph 2” and for the words “paragraph 2” in sub-paragraph (a) there shall be substituted the words “paragraph 3”.

(2) In sub-paragraph (1) of paragraph 2 the words “sub-paragraph (3)” shall be substituted for the words “paragraph 3”.

(3) The said paragraph 2 shall be renumbered 3 and there shall be inserted before the said paragraph 3 the following paragraph:—

“2. A transfer value shall be reduced—

(a) where applicable in accordance with sub-paragraph 4(d);
and

(b) where a contributions equivalent premium has been paid in respect of the teacher, by an amount equal to the contributions equivalent premium.”.

(4) After sub-paragraph (c) of paragraph 4 there shall be added the following sub-paragraph:—

“(d) if his reckonable service includes service after 5th April 1978, the amount of the guaranteed minimum pension.”.

- (5) After paragraph 8 there shall be added the following paragraph:—
- “9. Where the amount of a transfer value received by the Secretary of State has been reduced by a sum in respect of accrued guaranteed minimum pension, it shall be deemed for the purposes of paragraph 6 to have been the amount that would have been received had it not been so reduced.”.
- (6) Both Parts of the Appendix shall be deleted and the Appendix contained in the Schedule to these regulations substituted.

Bruce Millan,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh
2nd October 1978

Consent of the Minister for the Civil Service given under his Official Seal on
3rd October 1978.
(L.S.)

W. G. Bristow,
Authorised by the Minister for
the Civil Service.

Regulation 19(6)

SCHEDULE

"APPENDIX
PART A—MEN

Age for para- graph 3(1), 4, 7(b)(i) or 7(c)(i) as the case may be	Gross pension	Lump sum	Deduction for national insurance modification	Deduction for guaranteed minimum pension
	£	£	£	£
Less than 20	5·00	·60	·25	1·47
20	5·05	·60	·25	1·50
21	5·10	·61	·25	1·53
22	5·15	·61	·30	1·56
23	5·20	·61	·30	1·59
24	5·25	·62	·30	1·62
25	5·30	·62	·35	1·65
26	5·35	·63	·40	1·68
27	5·40	·63	·40	1·71
28	5·45	·63	·45	1·74
29	5·50	·64	·50	1·78
30	5·55	·64	·50	1·81
31	5·60	·65	·55	1·85
32	5·65	·66	·60	1·88
33	5·70	·66	·65	1·92
34	5·75	·67	·70	1·95
35	5·80	·67	·80	1·99
36	5·85	·68	·90	2·02
37	5·90	·68	1·00	2·06
38	5·95	·68	1·10	2·10
39	6·00	·69	1·20	2·14
40	6·05	·69	1·30	2·18
41	6·10	·70	1·40	2·22
42	6·15	·70	1·50	2·26
43	6·20	·71	1·60	2·30
44	6·25	·72	1·70	2·34
45	6·30	·72	1·80	2·39
46	6·40	·73	1·90	2·44
47	6·50	·74	2·00	2·48
48	6·60	·74	2·20	2·53
49	6·70	·75	2·40	2·58
50	6·80	·75	2·60	2·62
51	6·90	·76	2·90	2·67
52	7·10	·76	3·20	2·72
53	7·30	·77	3·50	2·78
54	7·50	·78	3·80	2·84
55	7·70	·79	4·20	2·90
56	8·00	·80	4·60	2·97
57	8·30	·81	5·00	3·04
58	8·60	·82	5·40	3·12
59	9·00	·84	5·80	3·20
60	9·50	·86	6·30	3·28
61	9·50	·88	6·80	3·36
62	9·50	·91	7·40	3·44
63	9·50	·94	8·10	3·53
64	9·50	·98	9·00	3·64
65	9·50	1·00	9·50	—

APPENDIX
PART B—WOMEN

Age for para- graph 3(1), 4, 7(b)(i) or 7(c)(i) as the case may be	Gross pension	Lump sum	Deduction for national insurance modification	Deduction for guaranteed minimum pension
	£	£	£	£
Less than 20	7·00	·60	·50	2·20
20	7·05	·60	·50	2·24
21	7·10	·61	·55	2·28
22	7·15	·61	·60	2·32
23	7·20	·61	·65	2·36
24	7·25	·62	·70	2·40
25	7·35	·62	·75	2·45
26	7·40	·63	·80	2·50
27	7·45	·63	·85	2·55
28	7·50	·63	·90	2·60
29	7·55	·64	·95	2·66
30	7·65	·64	1·05	2·71
31	7·70	·65	1·15	2·77
32	7·80	·66	1·25	2·82
33	7·90	·66	1·35	2·88
34	7·95	·67	1·45	2·93
35	8·05	·67	1·55	2·99
36	8·15	·68	1·65	3·05
37	8·25	·68	1·75	3·11
38	8·35	·68	1·85	3·17
39	8·45	·69	1·95	3·24
40	8·55	·69	2·10	3·31
41	8·65	·70	2·25	3·38
42	8·75	·70	2·45	3·45
43	8·85	·71	2·65	3·52
44	8·95	·72	2·90	3·59
45	9·05	·73	3·15	3·66
46	9·15	·74	3·40	3·74
47	9·25	·75	3·70	3·82
48	9·35	·76	4·00	3·90
49	9·45	·77	4·35	3·98
50	9·55	·78	4·75	4·06
51	9·65	·79	5·15	4·15
52	9·80	·80	5·60	4·24
53	9·95	·81	6·10	4·33
54	10·10	·82	6·65	4·43
55	10·30	·83	7·25	4·53
56	10·50	·84	7·95	4·63
57	10·75	·85	8·75	4·74
58	11·05	·87	9·65	4·85
59	11·40	·89	10·65	4·97
60	11·75	·91	11·75	—
61	11·75	·93	11·75	—
62	11·75	·95	11·75	—
63	11·75	·97	11·75	—
64	11·75	·99	11·75	—
65	11·75	1·00	11·75	—

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the teachers' superannuation regulations for the purpose of meeting the requirements of the Social Security Pensions Act 1975. Most of the amendments are necessary to enable teachers in Scotland to be contracted-out of the upper-tier of the State pension scheme which commenced on 6th April 1978 and there are several consequential amendments.

The Regulations provide—

- (1) entitlement to a guaranteed minimum pension for teachers and for teachers' widows (regulation 6);
- (2) pensions for the widows of teachers who marry after retirement or after withdrawal from teaching (regulations 2 and 13);
- (3) requisite benefits for those teachers who have 5 years' qualifying service (regulations 7 and 8);
- (4) pensions for late entrants who may not be able to complete 5 years' service before the normal retirement age (regulation 7), and for the widows of late entrants (regulation 13);
- (5) entitlement to a revised award of pension and lump sum for pensioners who resume teaching after retirement without the former necessity of completing a full year of service (365 days) (regulation 10);
- (6) for the modification of benefits where a contributions equivalent premium is not refunded (regulation 9);
- (7) for the commutation of small pensions (regulation 15);
- (8) for the payment of transfer values to non-contracted-out schemes where the teacher has less than 5 years' reckonable service or has ceased service before 6th April 1978 or is a married woman or widow for whom no contributions equivalent premium liability exists, and in all other cases to contracted-out schemes only (regulation 14).
- (9) for the treatment of absence on account of pregnancy or confinement as reckonable service counting for entitlement to benefit where there is a right to return to work under the Employment Protection Acts (regulation 8).

The remaining Regulations (3 to 5, 11, 12 and 16 to 19) are minor and consequential.

These Regulations have retrospective effect to 6th April 1978 as authorised by section 12 (1) of the Superannuation Act 1972.

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