
 STATUTORY INSTRUMENTS

1983 No. 639 (S.54)

EDUCATION, SCOTLAND

**The Teachers' Superannuation (War Service, Etc.) (Scotland)
Regulations 1983**

<i>Made - - - - -</i>	<i>20th April 1983</i>
<i>Laid before Parliament</i>	<i>11th May 1983</i>
<i>Coming into Operation</i>	<i>1st June 1983</i>

In exercise of the powers conferred on me by sections 9 and 12 of the Superannuation Act 1972 (a) and of all other powers enabling me in that behalf, after consulting 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 in accordance with section 9(5) of the said Act, and with the consent of the Treasury (b), I hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Teachers' Superannuation (War Service, Etc.) (Scotland) Regulations 1983.

(2) No provision of these regulations shall apply to any person to whom at any time before 1st June 1983 any benefit including a return of contributions was or may become payable if—

- (a) he is placed by that provision in a worse position than he would have been in if it had not applied in relation to that benefit; and
- (b) that provision relates to a benefit paid or payable in respect of a person who—
 - (i) ceased before 1st June 1983 to be in reckonable service; or
 - (ii) died before that date while employed in reckonable service; and
- (c) the person first mentioned in this regulation elects by giving notice in writing to the Secretary of State within 6 months after 1st June 1983, that the provision shall not apply to him.

(3) These regulations shall come into operation on 1st June 1983, and shall have effect—

- (a) for the purposes of regulations 2 to 10 inclusive, as from 1st April 1978;
- (b) for the purposes of regulations 11 to 15 inclusive, as from 1st August 1977;

(4) In these regulations any reference to “the principal regulations” is a reference to the Teachers' Superannuation (Scotland) Regulations 1977 (c) as amended by the Teachers' Superannuation (Scotland) Amendment

(a) 1972 c.11.

(b) See the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

(c) S.I. 1977/1360.

Regulations 1977 (a), the Teachers' Superannuation (Scotland) Amendment Regulations 1978 (b) and the Teachers' Superannuation (Scotland) Amendment Regulations 1980 (c).

(5) Subject as aforesaid and except where the context otherwise requires, these regulations shall be construed as one with the principal regulations.

(6) Without prejudice to paragraph (5) of this regulation, in these regulations any reference to a teacher includes a reference—

- (a) to a teacher in receipt of an annual pension, and
- (b) a deceased teacher;

and, except where the context otherwise requires, in relation to a deceased teacher, any reference to his being entitled to count or reckon service includes a reference to there being an entitlement in his case to the service being counted or reckoned.

PART I

GENERAL

Definitions

2. In these regulations "a public service pension scheme" means an occupational pension scheme—

- (i) which cannot come into force, or be amended, without the scheme or the amendment being approved by a Minister of the Crown or government department; and
- (ii) which includes provisions for the war service of the members of the scheme in respect of a period before becoming entitled to participate in the scheme to reckon as service in respect of which benefits are payable in the scheme; and
- (iii) which provides for the making and receipt of transfer payments in respect of that war service.

Calculation of benefits

3. Where under any provision of these regulations a teacher is entitled to count reckonable service for the purposes of the principal regulations—

- (i) any benefit by way of periodical payments payable thereunder in respect of a period on or after 1st April 1978 shall be calculated or re-calculated accordingly;
- (ii) except where the teacher died before 1st April 1978 any benefit by way of a lump sum payable thereunder shall be calculated or re-calculated accordingly, and in the case of a retiral lump sum payable under regulation 54 of the principal regulations the reckonable service shall be treated as service before 1st October 1956; and
- (iii) any transfer value which becomes or became payable thereunder in respect of a teacher who ceased to be employed in reckonable service on or after that date shall be calculated or re-calculated accordingly.

(a) S.I. 1977/1808.

(b) S.I. 1978/1507.

(c) S.I. 1980/344.

Avoidance of duplication of war service

4. Where, apart from these regulations, a teacher would be entitled to count reckonable service by reason of his war service then, notwithstanding anything in Part II of these regulations, he shall not be entitled so to count service thereunder.

PART II

PROVISIONS RELATING TO THE RECKONING OF TRANSFERRED-IN WAR SERVICE

Application to teachers who have transferred-in

5. This Part shall apply to a teacher—

- (i) who was entitled to count reckonable service on 1st April 1978 or where he had died before that date but after 31st August 1974, immediately before his death; and
- (ii) who ceased to be in employment by reason of which he was subject to a public service pension scheme and by virtue of the said scheme's war service provisions, analogous to the provisions of regulation 68 of the principal regulations, would have been able to reckon service if he had continued in that employment; and
- (iii) in respect of whom a transfer value became payable to the Secretary of State before 1st April 1978 which took account of the employment referred to in sub-paragraph (ii) above; and
- (iv) who, by reason of payment of that transfer value, was on 1st April 1978 entitled to count reckonable service for the purposes of the principal regulations; and
- (v) in respect of whom a transfer value in respect of his war service is paid to the Secretary of State by the managers of a public service pension scheme.

Reckoning of war service on receipt of transfer value

6.—(1) On receipt of the transfer value referred to in regulation 5(v) of these regulations, the Secretary of State shall credit a teacher to whom this Part applies with a period of reckonable service in respect of his war service.

(2) The reckonable service to be credited under paragraph (1) of this regulation shall be a period of such reckonable service as would enable the Secretary of State to pay, by reference to a teacher's age and salary at 1st April 1978, a transfer value calculated in accordance with Schedule 1 to these regulations, equivalent to the amount received.

(3) For the purposes of this regulation any sum representing the compound interest that may be paid on a transfer value shall be disregarded.

(4) No provision relating to the reduction, by way of national insurance modification, of an annual pension has any application in relation to reckonable service which a teacher is entitled to count under this Part.

(5) The provisions of Schedule 2 to these regulations shall have effect in relation to family pensions under the principal regulations.

(6) Where reciprocal arrangements between the Secretary of State and the managers of a public service pension scheme exist, the Secretary of State may waive payment of any transfer value referred to in regulation 5(v) of these regulations; and if he does so, such a payment shall be deemed to have been made for the purposes of this regulation.

(7) Where paragraph (6) of this regulation applies there shall be credited to the teacher a period of reckonable service equal to the period of war service in respect of which a transfer value would have otherwise been made, and where a teacher was a participant of the police or firemen's pension schemes the period of reckonable service shall be increased by one-third of its length.

(8) In this regulation "the police and firemen's pension schemes" means the pension arrangements maintained in pursuance of regulations made or having effect as if made under the Police Pensions Act 1976 (a) or section 25 of the Police Act (Northern Ireland) 1970 (b), or of the Firemen's Pension Scheme Order 1973 (c) in force under section 26 of the Fire Services Act 1947 (d) or section 17 of the Fire Services Act (Northern Ireland) 1969 (e) .

PART III

TRANSFER OF RECKONABLE SERVICE IN RESPECT OF WAR SERVICE TO A PUBLIC SERVICE PENSION SCHEME

Application to former teachers

7.—(1) This Part shall apply in the case of a former teacher—

- (a) with war service within the meaning of regulation 68 of the principal regulations and to whom that regulation applies; and
- (b) who last ceased to be employed in reckonable service before 1st September 1974 and was alive on that date; and
- (c) in respect of whom a transfer value has become payable under the principal regulations by reason of his having so ceased to be employed; and
- (d) who, by reason of that transfer value, was on 1st April 1978 entitled to reckon service for the purposes of such a public service pension scheme.

(2) The Secretary of State may pay a transfer value calculated in accordance with Schedule 1 to these regulations to the managers of a public service pension scheme in respect of the war service of a former teacher to whom this Part applies if—

- (a) the former teacher applies in writing to the Secretary of State, giving particulars of his date of birth, sex, the period of his war service and any other particulars that are necessary to enable the Secretary of State to pay such an additional transfer value; and
- (b) the application is in the first instance addressed to the said managers of the public service pension scheme; and
- (c) his employment in teaching was the first period of public service employment which reckons as service in respect of which benefits are payable in the said public service pension scheme.

(a) 1976 c.35.

(b) 1970 c.9 (N.I.).

(c) S.I. 1973/966.

(d) 1947 c.41.

(e) 1969 c.13 (N.I.).

(3) Where after 31st August 1974 a widow's pension or child's pension becomes payable under the provisions of a public service pension scheme in respect of the service of a former teacher who, had he not died, could have applied for payment of a transfer value under this regulation, the person entitled to such a widow's pension or child's pension may apply in accordance with paragraph (2) of this regulation in lieu of his application.

(4) The period of reckonable service in respect of which the Secretary of State may make a transfer value under this Part shall be calculated in accordance with the formula—

$$\frac{Z - (7\% \times Z)}{2}$$

where Z is the period of war service;

and where 7% is the actuarial deduction in lieu of contributions.

(5) Where reciprocal arrangements between the Secretary of State and the managers of a public service pension scheme exist to waive payment of transfer values due and the said managers waive payment, the transfer value shall be deemed to have been paid for the purposes of this regulation; and the Secretary of State shall notify the said managers of the period of reckonable service calculated in accordance with paragraph (4) of this regulation.

PART IV

TEACHERS PURCHASING PAST ADDED YEARS UNDER REGULATION 21 OF THE PRINCIPAL REGULATIONS

8.—(1) This Part shall apply in the case of a teacher who—

- (a) has been notified by the Secretary of State that he is entitled to count a period of reckonable service under Part II; and
- (b) before becoming so entitled elected to purchase added years under regulation 21 of the principal regulations or a previous provision to the like effect; and
- (c) as a result of becoming so entitled either—
 - (i) was, at the date he was notified as aforesaid, entitled to count reckonable service in excess of 45 years or, if he had then attained the age of 60 years, in excess of the aggregate of 40 years and his reckonable service attributable to employment in such service after attaining that age, or
 - (ii) would, if he continued to be employed in reckonable service, become entitled to count reckonable service in excess of 40 years when he attained the age of 60 years.

(2) In relation to such a teacher the expression "excess period" means, in this Part, the period in excess of that mentioned in paragraph (1)(c) which he was or, as the case may be, would become, entitled to count as there mentioned.

9.—(1) If, within 6 months of being notified as mentioned in regulation 8(1)(a) (or such longer period as, in the case of a particular teacher, may be approved), a teacher to whom this Part applies requests the Secretary of State in writing that the number of years to which the election referred to in regulation 8(1)(b) related should be treated as reduced by the excess period, it shall be so treated.

(2) To the extent, if any, that contributions already paid by the teacher exceed those required to purchase the reduced number of years, those contributions shall be refunded to him.

PART V

MISCELLANEOUS

Reckonable service

10. In regulation 4(1) of the principal regulations the following sub-paragraph shall be added:—

“(g) service credited under the Teachers’ Superannuation (War Service, Etc.) (Scotland) Regulations 1983.”.

Pensionable salary

11. In regulation 8 of the principal regulations the following paragraph shall be added after paragraph (4):—

“(4A) In the case of a teacher employed in part-time service under contracts of employment concurrently in force who ceases to be employed under any one of those contracts in circumstances by virtue of which he becomes entitled to a retiring allowance referred to in regulation 46(2)(c) his pensionable salary shall be deemed to be the pensionable salary which is related to the contract of employment which he has ceased to hold.”.

Entitlement to retiring allowances on grounds of age or premature retirement

12. For sub-paragraph (c) of regulation 46(2) of the principal regulations there shall be substituted the following sub-paragraph:—

“(c) whose employer has certified in writing to the Secretary of State that on or after 1st April 1976 the teacher ceased to be employed under a contract of employment or will cease to be so employed after attaining the age of 50 or in the case of a teacher employed in part-time service under contracts of employment concurrently in force that he has ceased to be employed under any one of those contracts by reason of redundancy or in the interests of the efficient exercise of the employer’s functions.”.

Reckonable service for entitlement and for benefit

13. In regulation 49(2) of the principal regulations the following sub-paragraph shall be added:—

“(f) there shall be disregarded in respect of a teacher employed in part-time service under contracts of employment concurrently in force who ceases to be employed under any one of those contracts in circumstances by virtue of which he becomes entitled to a retiring allowance referred to in regulation 46(2)(c), the reckonable service recorded whether before or after cessation of the said contract of employment in respect of any contracts of employment under which he continues to be employed.”.

Abatement of annual pension

14. In regulation 60 of the principal regulations there shall be inserted the following:—

- (a) at the beginning of paragraph (1),
“Subject to paragraph (7)” and,
(b) after paragraph (6),
“(7) Unless he either changes his employment, or varies the conditions of any contracts of employment concurrently in force, paragraphs (1) to (6) inclusive shall not apply in the case of a teacher—
(a) to whom a retiring allowance has become payable by reason of redundancy or in the interests of the efficient exercise of the employer’s functions, and
(b) who continues to be employed in reckonable service under a contract of employment for part-time service which was concurrently in force with the contract of employment which he ceased to hold.
(8) In the case of a teacher to whom paragraph (7) applies, there shall be no reduction in the annual pension payable to him so long as he continues to be employed under the contract of employment for part-time service referred to in paragraph (7)(b), and for the purposes of this paragraph the rate of earnings shall be deemed to remain constant throughout the period of that employment.”.

Superannuation schemes

15. At the beginning of regulation 71(1) of the principal regulations after the word “Part” there shall be inserted the words “, excepting regulation 73,”.

George Younger,
One of Her Majesty’s Principal
Secretaries of State.

New St Andrew’s House,
Edinburgh.
13th April 1983.

We consent,

J. A. Cope,
D. J. F. Hunt,
Two of the Lords Commissioners of
Her Majesty’s Treasury.

20th April 1983.

Regulations 6(2) and 7(2) SCHEDULE 1

CALCULATION OF TRANSFER VALUE

The transfer value payable shall be calculated in accordance with the formula $(A \times B \times C) + D$ where—

- A is the period of reckonable service calculated in accordance with regulation 7(4) of these regulations;
- B is the appropriate factor in the Table to this Schedule;
- C in the case of a person in service is the pensionable salary at 1st April 1978 or, in the case of a person in receipt of a retiring allowance, the pensionable salary at date of retirement (increased in accordance with the Pensions (Increase) Act 1971 (a)) as appropriate to his retiring allowance as at 1st April 1978 or appropriate later date;
- D is the same rate of compound interest in respect of such periods between 1st April 1978 and the day on which the transfer payment is made as would be applicable under the provisions of paragraph 1 of Schedule 10 to the principal regulations.

TABLE TO SCHEDULE 1
TRANSFER VALUES FOR THE TRANSFER OF WAR SERVICE

Age last birthday at 1st April 1978	Men	Women
40	0.1009	0.1328
41	0.1018	0.1344
42	0.1024	0.1357
43	0.1031	0.1372
44	0.1038	0.1389
45	0.1045	0.1405
46	0.1058	0.1422
47	0.1073	0.1437
48	0.1085	0.1454
49	0.1099	0.1470
50	0.1111	0.1487
51	0.1125	0.1502
52	0.1150	0.1525
53	0.1176	0.1548
54	0.1203	0.1571
55	0.1229	0.1599
56	0.1267	0.1628
57	0.1306	0.1663
58	0.1345	0.1707
59	0.1397	0.1759
60	0.1463	0.1810
61	0.1465	0.1818
62	0.1469	0.1825
63	0.1473	0.1833
64	0.1478	0.1840
65	0.1480	0.1844
66	0.1436	0.1800
67	0.1392	0.1756
68	0.1355	0.1713
69	0.1311	0.1669
70	0.1267	0.1625
71	0.1230	0.1575
72	0.1190	0.1519
73	0.1144	0.1463

(a) 1971 c.56.

Age last birthday at 1st April 1978	Men	Women
74	0.1106	0.1406
75	0.1063	0.1350
76	0.1019	0.1294
77	0.0981	0.1238
78	0.0938	0.1181
79	0.0900	0.1131
80	0.0854	0.1088
81	0.0815	0.1044
82	0.0775	0.1006
83	0.0735	0.0969
84	0.0698	0.0931
85	0.0661	0.0894
86	0.0623	0.0856
87	0.0585	0.0825
88	0.0554	0.0794
89	0.0525	0.0769
90	0.0496	0.0744
91	0.0467	0.0719
92	0.0440	0.0694
93	0.0419	0.0669
94	0.0398	0.0644
95	0.0377	0.0625
96	0.0356	0.0600
97	0.0342	0.0581
98	0.0321	0.0556
99	0.0306	0.0531

SCHEDULE 2

Regulation 6(5)

COUNTING OF SERVICE FOR FAMILY PENSIONS

PART I

GENERAL

1. In this Schedule:—

(a) “relevant reckonable service” means reckonable service which counts in the case of a teacher under regulation 6 of these regulations by reason of his war service;

(b) a reference to relevant reckonable service counting for family pension purposes is a reference to such service counting for benefit for the purposes of Schedule 9 to the principal regulations or a previous provision to the like effect.

2. Any election for the purposes of this Schedule shall be made in writing to the Secretary of State.

3.—(1) Relevant reckonable service shall not count for family pension purposes in the case of a teacher whose other reckonable service does not count in full for those purposes.

(2) Relevant reckonable service shall not count for family pension purposes in the case of a teacher who died before the date from which war service provisions had effect in the public service pension scheme in pursuance of which the transfer value referred to in regulation 5(iii) of these regulations was paid.

(3) References to a teacher in the following Parts of this Schedule do not include references to a teacher in whose case the counting of relevant reckonable service for family pension purposes is precluded by this paragraph.

(4) In the case of the widow of a teacher (employed in reckonable service after 5th April 1978) where they married after the day on which he was last employed in reckonable service, it is hereby declared that for the purposes of regulation 64(8) of and Schedule 8 to the principal regulations relevant reckonable service shall be treated as reckonable service before 6th April 1978.

PART II

TEACHERS IN WHOSE CASE LUMP SUMS HAVE NOT BECOME PAYABLE

1. Subject to paragraph 3(3) of Part I of this Schedule, this Part shall apply in the case of a teacher to whom no lump sum has become payable under the principal regulations before the date on which he is notified by the Secretary of State that he is entitled to count relevant reckonable service, other than a teacher who died before that date.

2.—(1) A teacher to whom this Part applies may elect that his relevant reckonable service shall count for family pension purposes.

(2) An election for the purposes of this paragraph shall be made before the expiry of the period of three months from the date on which the teacher claims his lump sum except that, where he claims such a lump sum both in advance of its becoming payable and before being notified by the Secretary of State that he is entitled to count relevant reckonable service, it may be made within the period of three months from the date on which he is so notified.

3. Where such a teacher so elects, his relevant reckonable service shall so count but the amount of—

- (a) any lump sum under regulation 46 of the principal regulations, or
- (b) any death gratuity under regulation 57 of the principal regulations

which is or may become payable in his case shall be reduced by the amount determined as the actuarial cost of the increase in the amount of any pension which is payable by virtue of this Part.

4. Where such a teacher does not so elect then, unless Part IV of this Schedule applies in his case, he shall not be entitled to count relevant reckonable service for family pension purposes.

PART III

TEACHERS IN WHOSE CASE LUMP SUMS HAVE BECOME PAYABLE

1. Subject to paragraph 3(3) of Part I of this Schedule, this Part shall apply in the case of a teacher to whom a lump sum has become payable under the principal regulations before the date on which he is notified by the Secretary of State that he is entitled to count relevant reckonable service, other than a teacher who died before that date.

2. A teacher to whom this Part applies may, within six months of being so notified, elect that his relevant reckonable service should count for family pension purposes.

3.—(1) Where such a teacher so elects, his relevant reckonable service shall so count but there shall be payable by him a sum which is the actuarial cost of the increase in the amount of any pension which is payable by virtue of this Part.

(2) Without prejudice to any other method of recovery, a sum due under subparagraph (1) may be deducted from any repayment of contributions or death gratuity which may become payable to the teacher's personal representatives.

4. Where such a teacher does not so elect then, unless Part IV of this Schedule applies in his case, he shall not be entitled to count relevant reckonable service for family pension purposes.

PART IV

DECEASED TEACHERS

1. Subject to paragraph 3(3) of Part I of this Schedule, this Part shall apply in the case of a teacher who dies or has died—
 - (a) before 1st June 1983; or
 - (b) before being notified by the Secretary of State that he is entitled to count relevant reckonable service, or
 - (c) after being so notified but at a time when he has not elected, but is still entitled to elect, under Part II or Part III of this Schedule, that his relevant reckonable service should count for family pension purposes.
2. In the case of a teacher to whom this Part applies, two-thirds of his relevant reckonable service shall count for family pension purposes.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations allow the reckoning of war service for teachers who were not in the Teachers' Superannuation Scheme immediately following war service but who transferred-in with a transfer value from another public service pension scheme. They allow former teachers who were in the Teachers' Superannuation Scheme immediately following war service but who subsequently transferred to another public service pension scheme to apply to have their war service recorded as reckonable and transferred-out to the said public service scheme (regulations 2 to 10 inclusive).

These regulations also extend to teachers in part-time concurrent employments the entitlement to retiring allowances on the grounds of premature retiral on grounds of redundancy or in the interests of the efficient exercise of the employer's functions (regulations 11 to 14 inclusive); they also correct a drafting defect in the principal regulations (regulation 15).

Certain regulations in these regulations have retrospective effect as authorised by section 12 of the Superannuation Act 1972.

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