EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the payment of additional voluntary contributions by teachers who are members of the Superannuation Scheme as constituted by the Teachers' Superannuation (Scotland) Regulations 1992, in order to secure additional benefits financed by investment of those contributions. They revoke and re-enact the Teachers Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1992 ("the 1992 Regulations") with amendments. The Regulations have effect from 15th February 1994. Retrospection is authorised by section 12(1) of the Superannuation Act 1972.

The Regulations provide for the making of elections of various kinds. Regulation 3 contains general provisions as to their making and acceptance; regulation 4 provides for elections to pay single payment and regular contributions so as to secure additional retirement and dependants' pensions and further provides for elections to pay regular contributions so as to secure a lump sum death benefit in the event of death while paying such contributions; regulation 5 permits teachers who have elected to provide a lump sum death benefit to apply that sum, either in whole or in part, to the purchase of dependants' pensions; regulation 6 allows elections made under regulation 4 to be varied or cancelled.

Regulation 7 deals with the payment of contributions and imposes a limit on their total amount.

When an election has effect a person is a contributor for the purpose of these Regulations but, generally, ceases to be a contributor if he is no longer in pensionable employment (regulation 8).

Regulation 9(1) requires the Secretary of State to invest contributions with the selected insurance company in one or more of the specified funds in accordance with any wishes expressed by the contributor. Regulation 9(2), referring to an election to provide a lump sum death benefit, requires contributions to be invested so as to secure payment of the amount specified. Regulation 10 requires a transfer value accepted from another additional voluntary contributions scheme also to be invested as appropriate, while regulation 11 sets out the provisions regarding payment of a transfer value (representing the value of the investments) to an insurance company or a superannuation scheme.

On retirement, investments (except those providing for a lump sum death benefit) are to be realised and retirement or dependants' pensions, or both, are to be purchased with the proceeds from an authorised provider chosen by the participator to provide the benefits specified in the notice of election. Such pensions are generally payable for life, and are not able to be commuted or assigned, but provision is made to allow the proceeds of the realisation of investments to be paid as a lump sum in some circumstances (regulation 12).

Regulation 13 provides for the payment of lump sum death benefits secured by contributions under regulation 4.

Regulation 14, with the Schedule, imposes limits on benefits payable under the Regulations; where benefits exceed the prescribed limits the investments applicable to the purchase of the excess shall not be used for that purpose and shall be returned to the teacher after deduction of tax.

Regulation 15 provides for the realisable value of investments to be repaid where contributions under the 1992 regulations are repaid.

Regulation 16 provides that the Secretary of State is not responsible for payments under a pension policy purchased from an authorised provider except in the circumstances specified in regulation 16(2) and makes provision for the payment of lump sums. Regulation 17 requires him to be given information needed for the purposes of his functions under the Regulations. Regulation 18 provides for any payment, up to a prescribed maximum (currently £5,000), payable to the personal representatives of deceased persons, to be made without confirmation or proof of title. Regulation 19 provides for questions to be determined by the Secretary of State.

Regulation 20 provides for single payment contributions made by employees after 15th February 1994 in anticipation of these Regulations to be treated as contributions, and for benefits to be payable where such payments are invested and a relevant event occurred before the Regulations took effect. Although Regulation 20 refers to events before the Regulations took effect, it only creates rights and duties after the Regulations took effect.

Regulation 21 revokes the 1992 Regulations and makes transitional provisions.

In addition to minor and drafting amendments, these Regulations make the following changes of substance from the 1992 Regulations:—

(a) provision for payment of single payment contributions has been included (regulation 4(1)(b));

(b) a time limit for the remission of regular contributions to the Secretary of State is introduced, namely 14 days after the employer has deducted such contributions from the contributor's salary (regulation 7(2));

(c) if no benefits election has been made by 6 months after the employee's retirement, provision is made for the investments to be realised and used to purchase a pension from the selected insurance company (regulation 12(8)); and

(d) where a lump sum death benefit becomes payable and the employee had elected that it be used to buy a dependant's pension, provision is made for the dependant (if he or she has attained 18 years of age) to choose the insurance company from whom the pension is to be purchased (regulation 13(3)).