
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 393

The Teachers' Superannuation (Scotland) Regulations 2005

PART G

TRANSFER VALUES

Payment of transfer values

G1.—(1) Subject to paragraphs (2) to (14), where a teacher has, after 31st December 1985, ceased to be in pensionable employment, or has, after 5th April 1988, entered excluded employment by virtue of an election made under regulation B7, the Scottish Ministers shall in respect of that teacher pay a transfer value, calculated in accordance with Part I of Schedule 12, to be used in accordance with section 94 of the 1993 Act⁽¹⁾ at the person's option in one or more of the ways set out in sub paragraph (2) of that paragraph.

(2) A transfer value is not to be paid unless the teacher ceased to be employed in pensionable employment, or entered excluded employment, before attaining the age of 60 years or, where paragraph (5) applies, the age of 59 years.

(3) A transfer value is not to be paid where a teacher has been in pensionable employment for less than 2 years unless—

- (a) on ceasing to be employed in pensionable employment and taking up employment in which he or she participates in an approved superannuation scheme, personal pension scheme or self employed pension arrangement; or
- (b) on entering excluded employment in which he or she participates in a personal pension scheme,

he or she has, within 12 months after taking up that employment or beginning so to participate, made an application such as is mentioned in paragraph (4) for payment of a transfer value.

(4) The teacher must before—

- (a) attaining the age of 60 years; or
- (b) where paragraph (5) applies, attaining the age of 59 years, or 6 months after the date he or she ceased to be employed in pensionable employment or entered excluded employment, whichever is later,

have made an application in writing to the Scottish Ministers for payment of a transfer value and not subsequently withdrawn it in accordance with paragraph (9).

(5) This paragraph applies where a teacher opts to have payment of his or her transfer value, or any portion of it, made to one or more insurance companies to purchase an appropriate policy.

(6) Where paragraph (5) applies, a transfer value is not to be paid unless the teacher has been in pensionable employment for at least 2 years.

(1) 1993 c. 48. Section 94 is amended by the Pensions Act 1995 (c. 26), section 154, the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 12 and is prospectively repealed by the Pensions Act 2004 (c. 35), Schedule 12.

(7) A transfer value is not to be paid in respect of a teacher to whom benefits under these Regulations have been paid, other than—

- (a) a benefit consisting of a return of contributions in respect of part only of the teacher's pensionable employment (whether or not repaid to the Scottish Ministers); or
- (b) a benefit consisting of a return of contributions in respect of all of the teacher's pensionable employment under regulation 17(2) or 45(1) of the 1977 Regulations⁽²⁾ where an amount equal to the sum received by him or her has subsequently been repaid to the Scottish Ministers.

(8) In the case of a teacher taking up employment in comparable British service, the time limit prescribed in paragraph (3) for making an application such as is mentioned in paragraph (4) shall not apply.

(9) An application for payment of a transfer value may be withdrawn by a teacher by giving notice in writing to the Scottish Ministers, but such notice will be of no effect if prior to the date of receiving it the Scottish Ministers have entered into an agreement with a third party to use the whole or any part of the teacher's transfer value pursuant to section 95 of the 1993 Act⁽³⁾.

(10) A teacher who withdraws an application in terms of paragraph (9) may make another.

(11) Subject to paragraph (12), the Scottish Ministers shall, on receipt of the teacher's application under paragraph (4), pay a transfer value by whichever is the earlier of the following:—

- (a) the date 6 months after the guarantee date; or
- (b) the date on which the teacher attains the age of 60 years where—
 - (i) he or she ceased to be employed in pensionable employment or entered excluded employment on a date prior to his or her attaining the age of 59 years; and
 - (ii) he or she made his or her application for payment of a transfer value within 6 months of that date.

(12) Where proceedings before a court have been commenced against a teacher at any time before the expiry of the period of 12 months beginning with the date on which his pensionable employment terminates and it appears to the Scottish Ministers that the proceedings may lead to any retirement benefits or grant payable under these Regulations to the teacher being reduced or withheld under regulation E22, the date by which the Scottish Ministers shall pay a transfer value shall be—

- (a) the date before which he or she would be required to do so under paragraph (11); or
- (b) the end of the period of 3 months after the conclusion of the court proceedings (including any proceedings on appeal),

whichever is the later.

(13) When the payment of a transfer value is made, the teacher's accrued rights, within the meaning given in Schedule 12, to which it relates shall cease to be treated as such for all purposes of these Regulations.

(14) Where a body administering a pension or superannuation scheme waives payment of a transfer value which would otherwise have been paid by the Scottish Ministers under this regulation, such a payment will be deemed to have been made for all purposes of these Regulations.

(2) *S.I. 1977/1360* ("the 1977 Regulations"). Regulation 45 was renumbered Regulation 45(1) by *S.I. 1978/1507*. The 1977 Regulations are revoked in their entirety (see Schedule 1 to these Regulations).

(3) *1993 c. 48*. Section 95 is amended by the Pensions Act 1995 (*c. 26*), Schedule 6 and the Child Support, Pensions and Social Security Act 2000 (*c. 19*), Schedules 5 and 9 and *S.I. 2001/3649*.

Acceptance of transfer values

G2.—(1) A teacher who has entered pensionable employment and has, in consequence of previous employment, accrued rights to benefit under—

- (a) an approved superannuation scheme;
- (b) a personal pension scheme; or
- (c) a self employed pension arrangement,

may give written notice to the Scottish Ministers that he or she wishes them to accept a transfer value in respect of those accrued rights, or any part of them.

(2) Subject to paragraphs (4) and (5), the Scottish Ministers on receipt of the notice from the teacher may accept from—

- (a) the trustees or managers of the approved superannuation scheme, personal pension scheme or self employed pension arrangement in which his or her accrued rights are preserved (hereinafter in the regulation referred to as “the previous scheme”); or
- (b) the trustees or managers of the superannuation scheme or the insurance company to which a payment in respect of his or her accrued rights or any part thereof has been made,

a transfer value in respect of all, or part, of those accrued rights.

(3) Unless while the teacher was subject to the previous scheme, he or she was employed in comparable British service, the written notice must have been given within 12 months after the day on which the teacher entered pensionable employment.

(4) A transfer value shall not be accepted in respect of a teacher who—

- (a) is a re-employed teacher to whom regulation E18 applies; or
- (b) has become entitled to payment of benefits under a provision of a statutory scheme corresponding to regulation E6.

(5) Subject to paragraph (6), where notice is given and the transfer value is accepted by the Scottish Ministers—

- (a) an additional period of reckonable service will be credited to the teacher in respect of the transfer value calculated in accordance with Part II of Schedule 12; and
- (b) the period of service in respect of which the transfer value is made, as certified by the trustees or managers of the previous scheme, shall be taken into account in determining whether any benefit is payable to or in respect of the teacher under these Regulations.

(6) A transfer value shall not be accepted unless it exceeds the annual amount of the guaranteed minimum pension which the Scottish Ministers would have been liable to provide as a result of accepting it, multiplied by the factor appropriate to that person, as set out in column 2 of the Table below opposite the person’s age, as at the date when the Scottish Ministers are requested to accept the transfer value, as set out in column 1.

TABLE

<i>(Column 1)</i> Age	<i>(Column 2)</i> Appropriate factor
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(7) For the purposes of this regulation, “employment” shall not be construed only as employment under a contract of service.