
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 393

The Teachers' Superannuation (Scotland) Regulations 2005

PART C

TEACHERS' CONTRIBUTIONS

Salary on which contributions are payable – election

C2.—(1) Subject to paragraph (12), a teacher who—

- (a) continues in pensionable employment but whose contributable salary is reduced, otherwise than by reason of sick leave or maternity, paternity or adoption leave, and who satisfies the conditions in paragraph (2); or
- (b) leaves pensionable employment with one employer (“employer A”) and—
 - (i) takes up employment again with employer A, or
 - (ii) takes up employment with another employer (“employer B”),at a lower contributable salary and who satisfies the conditions in paragraph (3),

may make an election that his or her salary is to be treated as having continued at the rate specified in paragraph (4).

(2) The conditions referred to in paragraph (1)(a) are—

- (a) that on the date when the contributable salary was reduced the teacher had attained the age of 50;
- (b) that on that date he or she had been in pensionable employment or excluded employment for at least 5 years; and
- (c) that the responsibility of that teacher’s post after the reduction in contributable salary is lower than the responsibility of any of the posts which he or she had held during the period of 5 years immediately preceding the date of the reduction in contributable salary.

(3) The conditions referred to in paragraph (1)(b) are—

- (a) that on the date of leaving pensionable employment with employer A the teacher had attained the age of 50;
- (b) that on that date he or she had been in pensionable employment or excluded employment for at least 5 years;
- (c) that the responsibility of the teacher’s new post with employer A or, as the case may be, the teacher’s post with employer B is lower than the responsibility of any of the posts which he or she had held during the period of 5 years immediately preceding the date on which he or she left employment with employer A as described in paragraph (1);
- (d) that employer A notifies the Scottish Ministers that the teacher has provided satisfactory service during the period of 5 years referred to in sub paragraph (c) or, where he or she has been employed by employer A for less than 5 years, during the period when he or she was employed by employer A; and

- (e) that no more than one year had elapsed between leaving pensionable employment with employer A as described in paragraph (1) and taking up pensionable employment again with employer A or, as the case may be, taking up pensionable employment with employer B.

(4) The rate of salary referred to in paragraph (1) is–

- (a) where the teacher falls within paragraph (1)(a) and is employed in full time service after the reduction in contributable salary, the rate applicable immediately before the reduction;
- (b) where the teacher falls within paragraph (1)(b) and is re employed in full time service with employer A, or is employed in full time service with employer B, the rate applicable immediately before he or she left employment with employer A as described in paragraph (1);
- (c) where the teacher falls within paragraph (1)(a) and is employed in part time service after the reduction in contributable salary, the rate which would have been applicable immediately before the reduction if he or she had been employed for the same number of hours or for the same proportion of the year, term, month or week, as the case may be, as he or she is employed immediately after the reduction; and
- (d) where the teacher falls within paragraph (1)(b) and is employed in part time service at the start of their re employment with employer A or their employment with employer B, the rate which would have been applicable immediately the teacher left their employment with employer A as described in paragraph (1) if the teacher had been employed for the same number of hours or for the same proportion of the year, term, month or week, as the case may be, as he or she is employed at the start of his or her re employment with employer A or, as the case may be, his or her employment with employer B,

increased, in each case, on each increase day by–

$$\frac{(RI - RE)}{RF}$$

where–

RI is the retail prices index for the month in which the increase day occurs; and

RE is the retail prices index for the month in which the election was made.

(5) For the purposes of paragraph (4) the “increase day” is the first day of the month in each year following the month in which–

- (a) the salary was reduced, in a case where the teacher falls within paragraph (1)(a), or
- (b) the teacher left his or her employment with employer A as described in paragraph (1) in a case where the teacher falls within paragraph (1)(b),

and the first increase day is that falling in the year after the year in which the salary was reduced or the teacher left his or her employment with employer A, as the case may be.

(6) An election for the purposes of paragraph (1)–

- (a) must be made by giving written notice to the Scottish Ministers before the date which is 3 months after–
- (i) the reduction in salary, in a case where the teacher falls within paragraph (1)(a); or
- (ii) taking up employment again with employer A or, as the case may be, taking up employment with employer B, in a case where the teacher falls within paragraph (1)(b);
- (b) has effect from–

- (i) the day after the last day on which the teacher's salary was payable at the rate applicable immediately before the reduction in contributable salary, in a case where the teacher falls within paragraph (1)(a); or
 - (ii) the day on which the teacher takes up employment again with employer A or, as the case may be, takes up employment with employer B, in a case where the teacher falls within paragraph (1)(b); and
- (c) subject to paragraph (7), continues to have effect until the teacher ceases to be in pensionable employment unless he or she—
- (i) elects to pay additional contributions under regulation C8 or C9; or
 - (ii) takes up pensionable employment with another employer (“employer C”) within 6 months of ceasing to be in pensionable employment.
- (7) An election for the purposes of paragraph (1) may be cancelled by giving written notice to the Scottish Ministers at any time.
- (8) Notice of cancellation—
- (a) has effect from the first day of the month following that in which it was received; and
 - (b) is irrevocable.
- (9) If, while an election made for the purposes of paragraph (1) has effect, there is any further reduction in salary during a period of sick leave or maternity, paternity or adoption leave, the rate of salary specified in paragraph (4) is, during that period, to be treated as having been reduced in the same proportion as the actual rate.
- (10) In paragraphs (1)(a) and (1)(b) the reference to contributable salary is, in the case of a teacher employed in part-time service, a reference to the salary which would have been the teacher's contributable salary if the teacher had been in full-time service.
- (11) In this regulation “the retail prices index” means the index of retail prices published by the Office for National Statistics.
- (12) Paragraph (1) shall not apply where a teacher is in pensionable employment by virtue of regulation B9.