
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 393

The Teachers' Superannuation (Scotland) Regulations 2005

PART E

BENEFITS

Family benefits generally

E26.—(1) Pensions are payable in accordance with regulations E28 to E33 to widows, widowers, children and nominated beneficiaries of teachers who die in, or after having been in, pensionable employment.

(2) Where a teacher has further employment which is pensionable by virtue of regulation B9, in calculating the benefits payable under regulations E28 to E33, that further employment shall not be taken into account but those regulations shall apply to further employment which is pensionable by virtue of regulation B9 as it applies to any other pensionable employment.

(3) Subject to paragraph (4), references in regulations E28 to E33 to a surviving spouse are references to a widow or widower, but in the case of—

- (a) a male teacher who has not been in pensionable employment, or paying additional contributions to purchase current added years under regulation C8 or C9, at any time after 5th April 1978; or
- (b) a female teacher who has not been in pensionable employment, or paying additional contributions to purchase current added years under regulation C8 or C9, at any time after 5th April 1988,

such references, and references to a widow or widower, do not include references to a person to whom a male or female teacher became married after his or her last day in pensionable employment or, as the case may be, the end of the period for which any such contributions were paid.

(4) References to a widower in regulation E28 to E33 do not include a widower of a teacher who was, before 6th April 1988, nominated by her as a beneficiary under regulation 65 of the 1977 Regulations⁽¹⁾.

(5) Where regulations E28 to E33 provide for a pension to be payable to a widow and there are two or more widows, the widows shall be entitled to an equal share of the pension; and where the death of one or more widows occurs, the survivor shall be entitled in full to the pension payable under those regulations, or, in the case of survivors, they shall be entitled to an equal share.

(6) References in regulations E28 to E33 to a teacher's child are to a person who is—

- (a) that teacher's child born during his or her lifetime or within 12 months of the date of his or her death, or their adopted child; or
- (b) accepted by him or her as a member of the family,

(1) *S.I. 1977/1360* ("the 1977 Regulations"). Regulation 65 was substituted by *S.I. 1989/666*. The 1977 Regulations are revoked in their entirety (see Schedule 1 to these Regulations).

who is wholly or mainly dependent on him or her and who is a child within the meaning given in paragraphs (7) to (9).

(7) Subject to paragraphs (8) and (9), for the purposes of regulations E27 to E33 a person is a child while he or she is unmarried and—

- (a) he or she has not attained the age of 17;
- (b) having attained that age, he or she is receiving full-time education or attending a course of not less than 2 years' full-time training for a trade, profession or calling and he or she has been receiving full-time education or attending such course of training or both continuously since having attained that age without a break at any one time of longer than 18 months;
- (c) having not attained the age of 19, he or she is not in remunerative full-time work and is not entitled to income support by reason that he or she is receiving education for the purposes of section 142 of the Social Security Contributions and Benefits Act 1992⁽²⁾; or
- (d) having ceased while incapacitated to fall within sub-paragraph (a), (b) or (c), he or she continues to be incapacitated.

(8) For the purposes of paragraph (7)(b) a person is to be treated as not attending a course of training while he or she is receiving disqualifying income.

(9) Disqualifying income is remuneration at a rate not less than the annual rate at which an official pension, within the meaning of the 1971 Act⁽³⁾, would for the time being be payable if it had begun, and first qualified for increases under that Act, on 1st April 1972 and had then been payable at an annual rate of £250.

(10) References in regulations E28 to E33 to a nominated beneficiary are to a person nominated under regulation E27 (including in the case of a female teacher, her spouse, where nominated before 6th April 1988).

(2) 1992 c. 4.
(3) 1971 c. 56.