

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2014 No. 217**

**The Teachers' Pension Scheme (Scotland) Regulations 2014**

**PART 5**

Retirement benefits for teachers

CHAPTER 6

Ill health retirement

*SECTION 1*

*General*

**Interpretation**

**103.** In this Chapter—

“ill-health application” means an application under regulation 159 for payment of—

- (a) an ill-health pension; and
- (b) if applicable, a total incapacity pension;

“medical report” means a medical report accompanying an ill-health application.

**Incapacity definitions**

**104.** In this Chapter, a person (P)—

- (a) is incapacitated if, as a result of illness or injury, P is unfit to be in eligible employment despite appropriate medical treatment;
- (b) meets the incapacity condition if—
  - (i) P is incapacitated; and
  - (ii) P is likely to be incapacitated permanently; and
- (c) meets the total incapacity condition if—
  - (i) P is incapacitated; and
  - (ii) P’s ability to carry out any work is impaired by more than 90% and is likely to be impaired by more than 90% permanently.

**Ill-health applications**

**105.—(1)** An ill-health application made by a person (P)—

- (a) must be accompanied by all the medical evidence necessary for the scheme manager to determine that P is entitled to the payment of an ill-health pension or a total incapacity pension; and

- (b) must be signed by P's employer unless—
  - (i) P left all eligible employment for a reason other than because P was incapacitated; or
  - (ii) P made the ill-health application more than 2 years after the last day of pensionable service.
- (2) The medical evidence must include a medical report containing evidence that P meets—
  - (a) the incapacity condition; and
  - (b) if applicable, the total incapacity condition.
- (3) An application for a total incapacity pension will not be granted unless it is made—
  - (a) before P leaves all eligible employment; or
  - (b) within 2 years after the last day of pensionable service.

## *SECTION 2*

### *Ill-health pension*

#### **Entitlement day for ill-health pension**

- 106.**—(1) The entitlement day for an ill-health pension is the latest of the following—
- (a) the day specified in the medical report as the day on which a person (P) first met the incapacity condition or, if applicable, the total incapacity condition;
  - (b) the day which occurs 6 months before the date of a medical report following consideration of which the scheme manager is satisfied that P meets the incapacity condition or, if applicable, the total incapacity condition;
  - (c) the day after P leaves all eligible employment.
- (2) The entitlement day must not be before the date of any medical report following consideration of which the scheme manager was not satisfied that P met the incapacity condition or, if applicable, the total incapacity condition.

#### **Entitlement to ill-health pension**

- 107.**—(1) A member (P) is entitled to payment of an ill-health pension from the entitlement day if—
- (a) P is qualified or re-qualified for retirement benefits;
  - (b) P has not reached normal pension age;
  - (c) P has left all eligible employment;
  - (d) P has applied under regulation 159 for payment of an ill health pension;
  - (e) P has not applied under that regulation for payment of any other retirement pension; and
  - (f) the scheme manager is satisfied after consideration of a medical report that—
    - (i) if paragraph (2) applies, P meets the incapacity condition and the total incapacity condition; or
    - (ii) if paragraph (3) applies, P meets the incapacity condition.
- (2) This paragraph applies if—
- (a) P left all eligible employment for a reason other than because P was incapacitated; or
  - (b) P made the ill health application more than 2 years after the last day of pensionable service.
- (3) This paragraph applies if—

- (a) P left all eligible employment because P was incapacitated; and
- (b) P made the ill-health application—
  - (i) before leaving all eligible employment; or
  - (ii) within 2 years after the last day of pensionable service.
- (4) Except as provided in regulation 111, an ill-health pension is payable for life.

#### **No entitlement to ill-health pension**

- 108.**—(1) A member (P) is not entitled to payment of an ill-health pension—
- (a) in respect of any pensionable service after P reaches normal pension age; or
  - (b) if paragraph (2) applies.
- (2) This paragraph applies if—
- (a) P is registered or formerly registered with the General Teaching Council for Scotland and—
    - (i) P’s name has been removed from that Council’s register following a direction by the Council’s Disciplinary Committee; or
    - (ii) P is under an investigation which might result in such removal; or
  - (b) P—
    - (i) is not and has not been registered with that Council; and
    - (ii) has ceased to be in pensionable employment as a result of a dismissal on grounds of misconduct.

#### **When ill-health pension does not become payable**

- 109.**—(1) If an ill-health pension does not become payable before the death of a member (D), a death grant is payable in respect of the member.
- (2) For the purpose of paragraph (1)—
- (a) an ill-health pension does not become payable before D’s death unless the initial payment of the pension is made before D’s death; and
  - (b) an ill-health pension that becomes payable before D’s death but ceases to be payable under regulation 111 or 115 is taken not to become payable before D’s death.

#### **Annual rate of ill-health pension**

- 110.** The annual rate of ill-health pension payable to a person (P) is found by—
- (a) taking the amount of full retirement earned pension specified in P’s pensioner member’s account;
  - (b) adding the amount of full retirement additional pension (if any) specified in that account; and
  - (c) subtracting the commutation amount (if any) specified in that account in relation to the sum of those amounts.

#### **When ill-health pension ceases to be payable**

- 111.**—(1) An ill-health pension ceases to be payable on the earlier of the following dates—
- (a) the date on which a person (P) re-enters eligible employment;

- (b) the date on which P engages in any work as a teacher which is not an eligible employment.
- (2) An ill-health pension does not cease to be payable on that date if P has reached normal pension age.

### SECTION 3

#### *Total incapacity pension*

#### **Meaning of “entitlement day” (total incapacity pension)**

**112.** The entitlement day for a total incapacity pension payable with an ill-health pension is the same as the entitlement day for the ill-health pension.

#### **Entitlement to total incapacity pension**

- 113.—**(1) A total incapacity pension is payable to a person (P) from the entitlement day if—
- (a) P is entitled to an ill-health pension because the scheme manager is satisfied that P meets the incapacity condition;
  - (b) P has applied under regulation 159 for payment of an ill-health pension and a total incapacity pension; and
  - (c) the scheme manager is satisfied after consideration of a medical report that P meets the total incapacity condition.
- (2) A total incapacity pension is not payable to P if—
- (a) P left an eligible employment for a reason other than because P was incapacitated; or
  - (b) P made the ill-health application—
    - (i) after leaving all eligible employment; and
    - (ii) more than 2 years after the last day of pensionable service.
- (3) Except as provided in regulation 115, the total incapacity pension is payable for life.

#### **Annual rate of total incapacity pension**

**114.—**(1) The annual rate of total incapacity pension payable to a person (P) is—  
where—

$$\frac{PS}{2} \times \frac{AR}{57}$$

AR means P’s annual rate of pensionable earnings—

- (i) as at the last day of pensionable service; or
- (ii) if P applies for a total incapacity pension while P is in stepped down employment, as at the day before P’s annual rate of pensionable earnings was first reduced under paragraph (2);

PS means P’s prospective service (in years and fractions of a year);

“P’s prospective service” means the period beginning with the day after the entitlement day and ending on the day on which P would have reached prospective normal pension age.

- (2) P is in stepped down employment if—
- (a) P is in an eligible employment;
  - (b) the terms of that employment are changed wholly or partly because of P’s ill-health;

- (c) as a result of the changed terms of employment, P's annual rate of pensionable earnings is reduced.
- (3) For the purpose of paragraph (b) of the definition of AR, P's annual rate of pensionable earnings is increased by the amount (if any) by which it would have been increased if it had been an official pension within the meaning of section 5(1) of PIA 1971—
  - (a) beginning, and first qualifying for increases under that Act, on the day after the day on which P's annual rate of pensionable earnings is reduced; and
  - (b) ending on the day on which the scheme manager receives P's application for the total incapacity pension.

### **Cessation of total incapacity pension**

**115.**—(1) A total incapacity pension ceases to be payable to a person (P) on the date on which P's ability to carry out any work ceases to be impaired by more than 90%.

(2) For the purpose of paragraph (1), P's ability to carry out any work ceases to be impaired by more than 90% on the earliest of the following dates—

- (a) the date on which P re-enters eligible employment;
- (b) the date on which P engages in any work as a teacher which is not an eligible employment;
- (c) the date on which P engages in any other form of work unless—
  - (i) P provides the scheme manager with a certificate from a registered medical practitioner stating that, in the opinion of the practitioner, P continues to meet the total incapacity condition despite engaging in such work; and
  - (ii) the scheme manager is satisfied that P continues to meet that condition despite engaging in such work.

(3) A total incapacity pension does not cease to be payable on that date if P has reached normal pension age.