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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 69**

**The Teachers' Superannuation (Scotland)  
(Miscellaneous Amendments) Regulations 2014**

**Substitution of regulation B8 and new regulation B8A**

7. For regulation B8, substitute—

**“Resumption of pensionable status**

**B8.**—(1) A teacher mentioned in paragraph (2) may make an election under this regulation in respect of a particular employment by giving written notice to the Scottish Ministers, save that a teacher mentioned in paragraph (2)(b) or (c) may only make an election before the automatic enrolment date in relation to that teacher in respect of that employment.

(2) The teachers are—

- (a) a teacher in, or about to enter, employment in a capacity mentioned in Schedule 2 who has previously made an election under regulation B7 (election for employment not to be pensionable);
- (b) a teacher in part-time employment which is not pensionable by virtue of regulation B2(3);
- (c) a teacher in part-time or full-time employment which is not pensionable by virtue of regulation B6(5).

(3) An election has effect from the first day of the month after the month in which the notice is given.

(4) But where the election is made by a teacher mentioned in paragraph (2)(a) who gives notice before or within 3 months after the start of employment in a capacity mentioned in Schedule 2, the election has effect from the first day of that employment.

**Backdating elections for employment to be pensionable**

**B8A.**—(1) Where—

- (a) an election under regulation B8 (resumption of pensionable status) is made by a teacher in respect of non-pensionable part-time employment or in non-pensionable post-retirement employment;
- (b) (except where the election is made by a teacher in non-pensionable post-retirement employment) at the same time as notice of the election is given the teacher making the election and the teacher's employer request that the Scottish Ministers backdate the election (by making a determination in accordance with paragraph (2)(b)) and the Scottish Ministers agree to do so;
- (c) the teacher making the election and the teacher's employer inform the Scottish Ministers that they agree that contributions in accordance with sub-paragraph (d) be paid; and

- (d) the sum mentioned in paragraph (6) together with interest at the standard rate is paid to the Scottish Ministers,

the teacher's relevant employment during the back period is to be treated as pensionable employment.

- (2) Where the election is made by a teacher in non-pensionable part-time employment—

- (a) “relevant employment” means non-pensionable part-time employment; and  
(b) the “back period” means the period beginning on a date determined by the Scottish Ministers and ending on the day on which the election has effect.

- (3) The date determined for the purpose of paragraph (2)(b) must be such that the back period does not begin before or during—

- (a) any period of the teacher's opted-out employment; or  
(b) any period during which the teacher was employed in relevant employment by an employer who does not join in the request mentioned in paragraph (1)(b) or inform the Scottish Ministers as mentioned in paragraph (1)(c).

- (4) Where the election is made by a teacher in non-pensionable post-retirement employment—

- (a) “relevant employment” means non-pensionable post-retirement employment; and  
(b) the “back period” means the period beginning on a date agreed between the teacher and the teacher's employer and ending on the day on which the election has effect.

- (5) The date agreed for the purposes of paragraph (4)(b)—

- (a) must not be before 1st October 2001; and  
(b) must be such that the back period does not begin before or during—  
(i) any period of the teacher's opted-out employments; or  
(ii) any period during which the teacher was employed in relevant employment by an employer who does not inform the Scottish Ministers as mentioned in paragraph (1)(c).

- (6) The sum is a sum equal to the contributions (due from both the teacher making the election and the teacher's employer or employers) which would have been payable to the Scottish Ministers if the teacher's relevant employment during the back period had been pensionable employment.

- (7) Where the election is made by a teacher with mixed service, the teacher's relevant employment during the back period is to be treated for the purpose of these Regulations as occurring after the post-break employment start date.

- (8) Where the election is made by a 2007 or later entrant, the teacher's relevant employment during the back period is to be treated for the purposes of these Regulations as occurring after 31st March 2007.

- (9) In this regulation—

“non-pensionable part-time employment” means employment which is not pensionable by virtue of regulation B2(3);

“non-pensionable post-retirement employment” means employment which is not pensionable by virtue of regulation B6(5);

“opted-out employment” means—

- (a) employment in a capacity mentioned in Schedule 2 which was not pensionable by virtue of an election under regulation B7 (election for employment not to be pensionable);
- (b) employment in a capacity mentioned in regulation B4 which ceased to be pensionable by virtue of an election under regulation B7 (election for employment not to be pensionable),

and where employment falls within paragraph (a) or (b) and is also non-pensionable part-time employment or non-pensionable post-retirement employment, that employment is opted-out employment.”.