

1978 No. 422

## EDUCATION, ENGLAND AND WALES

## The Teachers' Superannuation (Amendment) Regulations 1978

<i>Made</i> - - - -	14th March 1978
<i>Laid before Parliament</i>	22nd March 1978
<i>Coming into Operation</i>	17th April 1978

The Secretary of State, in exercise of the powers conferred by sections 9 and 12 of the Superannuation Act 1972(a) and Schedule 3 thereto, after consulting with representatives of local education authorities, teachers and other persons likely to be affected in accordance with section 9(5) of the said Act and with the consent of the Minister for the Civil Service, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Amendment) Regulations 1978.

(2) These Regulations shall come into operation on 17th April 1978 and, save as provided in Regulations 3 and 4 below, shall have effect as from 1st January 1977.

2.—(1) In these Regulations a reference to the principal Regulations is a reference to the Teachers' Superannuation Regulations 1976(b).

(2) Regulations 3 and 4 of these Regulations shall be construed as one with the principal Regulations.

3.—(1) Subject to Regulation 4 below, this Regulation shall apply in the case of a teacher who—

(a) last ceased to be employed in reckonable service after 31st March 1976 but before 1st January 1977, and

(b) would have been entitled to allowances by virtue of Regulation 53A of the principal Regulations, as amended by Regulation 12 of these Regulations, had the principal Regulations and these Regulations had effect as from the date on which he so ceased to be employed.

(2) If such a teacher, by notice in writing given to the Secretary of State within six months of 17th April 1978, so elects, the principal Regulations and these Regulations shall have effect in his case (subject to any necessary modifications) as from the date on which he so ceased to be employed and, accordingly, he shall be entitled to allowances by virtue of the said Regulation 53A, subject, however, to the provisions of the principal Regulations, as amended by these Regulations.

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(a) 1972 c. 11.

(b) S.I. 1976/1987.

4.—(1) This Regulation shall apply in the case of a teacher in respect of whom a transfer value has been paid before 17th April 1978, under Regulation 81 of the principal Regulations or a previous provision to the like effect, by reason of his having ceased to be employed in relevant service after 31st March 1976.

(2) In the case of such a teacher these Regulations shall have effect as from 17th April 1978 and as if Regulation 3 thereof were omitted unless within six months of that date—

(a) he notifies the Secretary of State in writing that he has requested the person to whom the transfer value was paid to repay it to the Secretary of State, and

(b) that person accedes to the request and the transfer value is so repaid.

(3) Where the transfer value is repaid as aforesaid the principal Regulations shall have effect as if it had never been paid.

5. In Regulation 22(2) of the principal Regulations (maximum purchase of added years) after the words “as a result of incapacity” there shall be inserted the words “or in such circumstances that regulation 53A applies”.

6.—(1) At the end of sub-paragraph (b) of Regulation 24(1) of the principal Regulations (purchase of past added years) there shall be added the words “subject, however, to paragraph (1A).”.

(2) After the said Regulation 24(1) there shall be inserted the following provision:—

“(1A) In the case of a teacher who has become entitled to allowances by virtue of regulation 53A, no account shall be taken for the purposes of this regulation of any period for which he was not employed in reckonable service falling after the date on which his employment was terminated as mentioned in that regulation.”.

7. At the end of Regulation 25(2) of the principal Regulations (election to purchase past added years) there shall be added the words “subject, however, to the provisions of regulation 24.”.

8. In Regulation 26(5) of the principal Regulations (method 1 contributions for added years) after the words “60th birthday” there shall be inserted the words “so, however, that, save in the case of a teacher who has become entitled to allowances by virtue of regulation 53A,” and for the word “being”, in both places where it occurs, there shall be substituted the words “shall be”.

9. In Regulation 29(3) of the principal Regulations (pre-1973 contributors) for the words “allowances under regulation 53 or 57” there shall be substituted the words “benefit under regulation 53(1)(c) or 57”.

10. For Regulation 30(2) of the principal Regulations (purchase of current added years) there shall be substituted the following provision:—

“(2) A teacher who has become employed in reckonable service after allowances have become payable to him under regulation 53(1)(c) or by

virtue of regulation 53A may not purchase any years under this regulation unless, in the case of allowances under regulation 53(1)(c), his annual allowance has been suspended under regulation 78.”.

**11.**—(1) At the beginning of Regulation 45(3) of the principal Regulations (deduction from terminal sum) there shall be inserted the words “Subject to paragraph (3A),”.

(2) After the said Regulation 45(3) there shall be inserted the following provision:—

“(3A) In the case of a teacher who has become entitled to allowances by virtue of regulation 53A paragraph (3) shall not apply but—

- (a) subject to sub-paragraph (b), regulation 66(3) shall have effect as if the service to which it applies by virtue of sub-paragraph (b) thereof were only the proportion here specified of the service specified in the said sub-paragraph, namely, the proportion which the aggregate of the contributions which he has paid as there mentioned bears to the aggregate which he would have so paid had he continued to pay contributions under this section for the whole of the period specified under regulation 43(3)(b);
- (b) if he so elects by notice in writing to the Secretary of State within three months of his ceasing to pay contributions under this section, sub-paragraph (a) shall not apply but there shall be deducted from the terminal sum payable in respect of him, or paid to the Secretary of State in such manner as may be approved, the actuarial equivalent of the balance outstanding of his contributions under this section.”.

**12.** After Regulation 53 of the principal Regulations (entitlement to allowances) there shall be inserted the following Regulation:—

*“Application of regulation 53 in certain cases of premature retirement.*

**53A.**—(1) This regulation shall apply to a teacher who ceases to be employed in reckonable service having attained the age of 50 but not having attained the age of 60, if by written notice given to the Secretary of State his employer certifies that his service has been terminated—

- (a) by reason of his redundancy, or
- (b) in the interests of the efficient discharge of his employer’s functions,

so, however, that this regulation shall not apply in the case of a teacher who is incapacitated when his service is terminated.

(2) In the case of a teacher to whom this regulation applies, regulation 53(1) shall have effect as if—

- (a) for both the references to the age of 60 in sub-paragraphs (a) and (b) thereof there were substituted references to the age of 50, and
- (b) sub-paragraph (c) were omitted therefrom.

(3) Any reference in these regulations to an allowance payable, or to which a teacher is entitled, by virtue of regulation 53(1)(a) or (b) includes, unless the context otherwise requires, a reference to an allowance payable, or to which a teacher is entitled, by virtue of regulation 53(1)(a) or (b) and this regulation.”.

**13.—**(1) In Regulation 55(1) of the principal Regulations (duration of annual allowance) after the words “regulation 53(1)(a) or (b)” there shall be inserted the words “(otherwise than by virtue of regulation 53A)”.

(2) After the said Regulation 55(1) there shall be inserted the following provision:—

“(1A) An annual allowance payable to a teacher by virtue of regulation 53A shall begin to accrue on the day following that on which he ceases to be employed in reckonable service.”.

**14.** In Regulation 56(5) of the principal Regulations (amount of additional allowance) for the words “For the purposes of” to the end there shall be substituted the following words:—

“For the purposes of this paragraph, a teacher who before attaining the age of 60—

(a) becomes incapacitated, or

(b) ceases to be employed in reckonable service in such circumstances that regulation 53A applies,

shall be treated as having continued in reckonable service until the date on which he attains the age of 60.”.

**15.—**(1) In paragraph (1) of Regulation 74 of the principal Regulations (allocation of annual allowance) after the words “payable to him” there shall be inserted the words “by virtue of regulation 53(1)(a) or (b)”.

(2) In paragraph (4)(a) of the said Regulation 74 after the words “begins to accrue” there shall be inserted the words “or that of his 60th birthday, whichever is the later”.

(3) For paragraph (6) of the said Regulation 74 there shall be substituted the following provision:—

“(6) Where a teacher has notified the Secretary of State of his intention to make an allocation but the declaration referred to in paragraph (1) has not been delivered to the Secretary of State before the date upon which his annual allowance begins to accrue or that of his 60th birthday, whichever is the later, then, in respect of the period beginning with the later of those dates and ending with the delivery of the teacher’s declaration (or his failure, following such medical examinations as are mentioned in paragraph 4 of Schedule 6, to satisfy the Secretary of State as to his health), payments on account of his annual allowance may be withheld in part so that the actual rate of those payments does not exceed two-thirds of the rate calculated under regulation 54; and after the expiry of the said period any overpayment or underpayment in respect thereof shall be deducted from, or, as the case may be, added to, subsequent payments on account of the allowance.”.

**16.** In the Table to Schedule 6 to the principal Regulations (allocation declarations) and in note 2 to the said Table after the word "continuing", in both places where it occurs, there shall be inserted the words "or retired".

Given under the Official Seal of the Secretary of State for Education and Science on 8th March 1978.

(L.S.)

*Shirley Williams,*  
Secretary of State for Education and Science.

Consent of the Minister for the Civil Service given under his Official Seal on 14th March 1978.

(L.S.)

*C. R. Morris,*  
Authorised by the Minister for the Civil Service.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations amend the Teachers' Superannuation Regulations 1976. Save in relation to a teacher in respect of whom a transfer value has been paid and is not refunded (*Regulation 4*), they have retrospective effect as mentioned below; retrospection is authorised by section 12(1) of the Superannuation Act 1972.

The principal amendments (*Regulations 12 and 13*) provide that, notwithstanding that a teacher has not attained the age of 60, allowances under the 1976 Regulations shall be immediately payable to him if, having attained the age of 50, his service is terminated by reason of redundancy or in the interests of the efficient discharge of his employer's functions. These amendments have effect as from 1st January 1977, the date on which the 1976 Regulations came into operation (*Regulation 1(2)*).

A teacher whose service was so terminated after 31st March 1976 but before 1st January 1977 may elect to be dealt with under the 1976 Regulations as amended by the present Regulations as if they had had effect as from the date of his termination of service (*Regulation 3*).

The present Regulations contain a number of amendments consequential on, or supplemental to, those mentioned above relating to the purchase of added years (*Regulations 5 to 10 and 14*), payments towards family benefits attributable to service before April 1972 (*Regulation 11*) and allocation (*Regulations 15 and 16*).

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