

1982 No 496

EDUCATION, ENGLAND AND WALES

**The Teachers' Superannuation (Amendment)
Regulations 1982**

Made - - - - - 30th March 1982

Laid before Parliament 7th April 1982

Coming into Operation 1st May 1982

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 the 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 Treasury, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Amendment) Regulations 1982.

(2) These Regulations shall come into operation on 1st May 1982 and shall have effect—

- (a) for the purposes of Regulation 3 thereof, as from 1st April 1982 ;
- (b) for the purposes of Regulation 4 thereof, as from 1st January 1977 ;
- (c) for the purposes of Regulation 5 thereof, as from 8th April 1982.

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

3. For Regulation 6 of the principal Regulations (service in accepted schools) there shall be substituted the Regulation set out in the Appendix hereto.

4.—(1) At the beginning of paragraph (1) of Regulation 9 of the principal Regulations (average salary) there shall be inserted the words "Subject to paragraph (7) where a teacher has been in part-time employment".

(2) In the definition of "terminal service" in paragraph (6) of the said Regulation 9 after the word "means" there shall be inserted the words "subject to paragraph (7) where a teacher has been in part-time employment".

(3) At the end of the said Regulation 9 there shall be added the following paragraph:—

"(7) Where for any period a teacher employed in reckonable service has been in part-time employment ("period of part-time employment") then paragraph (1) and the definition of "terminal service" in paragraph (6) shall have effect as if—

- (a) during the period of part-time employment he had not been continuously employed in reckonable service but had only been so

(a) 1972 c. 11. (b) S.I. 1976/1987; the relevant amending instrument is S.I. 1978/1512.

employed for the number of days treated as reckonable service in his case, in pursuance of regulation 5(3), by reason of the period in question, but

- (b) his full salary for the period of part-time employment were in respect of those days (the annual value of his full salary being calculated accordingly where paragraph (1)(b) applies) ;

so, however, that for the purposes hereof periods of part-time employment for which the teacher's salary was payable at different rates shall be treated as separate periods of part-time employment.”.

5. For paragraph 2 of Part 1 of Schedule 1 to the principal Regulations (employment which is reckonable service) there shall be substituted the following provision :—

“2. Teacher in a special school not maintained by a local education authority being either—

- (a) a qualified teacher within the meaning of regulations relating to teachers at schools for the time being in force under section 27(1)(a) of the Education Act 1980(a) (“the Teachers Regulations”(b)) or within the meaning of the Schools Regulations 1959(c), or
- (b) an unqualified teacher employed in pursuance of the provisions of the Teachers Regulations relating to the employment of student teachers or in pursuance of regulation 17 of the Schools Regulations 1959 as applied by regulation 16 of the Handicapped Pupils and Special Schools Regulations 1959(d), or
- (c) an unqualified teacher employed in pursuance of the provisions of the Teachers Regulations relating to the employment of instructors with special qualifications or experience or in pursuance of regulation 18 of the Schools Regulations 1959 as so applied.”.

APPENDIX

Regulation 3

REGULATION SUBSTITUTED FOR REGULATION 6 OF THE PRINCIPAL REGULATIONS

Accepted independent schools and further education establishments

6.—(1) Subject to their being accepted as hereinafter mentioned and without prejudice to paragraph (4), this regulation shall apply in relation to the following establishments, namely—

- (a) an independent school which is finally registered under section 70 of the Education Act 1944 ;
- (b) an independent school which is provisionally so registered if either—
 - (i) application for registration was made on the occasion of its ceasing to be such a school as is mentioned in paragraph 1, 2 or 3 of Schedule 1, or

(a) 1980 c. 20.

(b) The current regulations are S.I. 1982/106.

(c) S.I. 1959/364, revoked by S.I. 1982/106. The relevant amending instruments were S.I. 1968/1281, 1969/1777, 1971/342, 1973/2021, 1975/1054.

(d) S.I. 1959/365; regulation 16 was amended by S.I. 1968/1281 and revoked by S.I. 1982/129.

(ii) the Secretary of State is satisfied that it is constituted by the amalgamation of two or more schools including at least one accepted school and application for registration was made on the occasion of that amalgamation ;

(c) an establishment of further education in which full-time employment as a teacher is not reckonable service by virtue of Regulation 4(2)(a) ;

(d) a nursery school in which such full-time employment is not reckonable service as aforesaid.

(2) Subject to paragraph (6), for the purposes of this regulation such an establishment as is referred to in paragraph (1)(a), (b), (c) or (d) is an accepted school if—

(a) it was such immediately before 1st April 1982, or

(b) save in the case of a nursery school and subject to paragraph (4) in the case of an establishment of further education, it is accepted hereunder by the Secretary of State on or after that date upon the application of the governing body thereof.

(3) An accepted school shall, and shall only, be treated as such as from 1st January, 1st May or 1st September—

(a) last preceding the application for acceptance, where it was made before 1st December 1978 (whether for the purposes of these Regulations or of a previous provision), or

(b) next following that application, where it was made on or after that date,

unless the governing body and the Secretary of State (or the Minister of Education) agreed that it should be treated as an accepted school as from some other date being—

(i) the first day of a month subsequent to the application, or

(ii) in the case of an establishment which the Secretary of State is satisfied is constituted by the amalgamation of two or more establishments including at least one accepted school, such date as appears appropriate having regard to the terms of the amalgamation and the date of the application,

in which case it shall be so treated :

Provided, that a school which was an accepted school immediately before 1st April 1982 by virtue of its approval by the Treasury for the purposes of section 18(vii) of the School Teachers (Superannuation) Act 1918 shall be treated as an accepted school as from the date of that approval.

(4) On and after 1st April 1982 an establishment of further education shall not be accepted hereunder by the Secretary of State unless he is satisfied that it is constituted by the amalgamation of two or more establishments of further education including at least one accepted school.

(5) In the case of an accepted school other than an independent school, no person shall be employed as a teacher thereat on or after 1st April 1982 if, had the accepted school been an establishment of further education or, as the case may be, a nursery school to which regulations relating to the employment of teachers for the time being in force under section 27 of the Education Act 1980 applied, his employment thereat would be precluded by those regulations.

(6) An establishment which is an accepted school by virtue of paragraph (2) shall remain such unless, on or after any of the following events, the Secretary

of State gives the governing body thereof written notice to the contrary and, in such case, it shall cease to be an accepted school as from such date as is specified in the notice.

The events in question are—

- (a) the receipt by the Secretary of State of an application by the governing body that the establishment should cease to be an accepted school ;
 - (b) its ceasing to be such an establishment as is mentioned in paragraph (1)(a), (b), (c) or (d) ;
 - (c) any breach of the requirements of paragraph (5) ;
 - (d) any default by the governing body in the payment of contributions ;
 - (e) failure by the governing body to comply within a month with any requirement of the Secretary of State under Regulation 92 ;
 - (f) failure by the governing body to comply with any other provision of these Regulations relating to the employment of teachers in reckonable service.
- (7) Full-time employment as a teacher in an accepted school shall be reckonable service :

Provided that employment shall not be such service—

- (a) in the case of the proprietor of the accepted school, or
- (b) in the case of a teacher employed in an accepted school—
 - (i) accepted within the meaning of a previous provision whereunder his employment was not reckonable service, or
 - (ii) accepted under these regulations, where he was employed therein immediately before the date on which it became an accepted school and, within three months of that date, he has elected that his employment should not be reckonable service,

unless and until the teacher has subsequently elected that his employment should be reckonable service and, in such case, his employment in the accepted school shall be reckonable service from the first day of the month next following that election or such later date as may be approved.

(8) In this regulation any reference to an election is a reference to an election by written notice given to the Secretary of State and the following expressions have the meanings hereby respectively assigned to them, namely—

“governing body” includes the person or body of persons by whom teachers are employed ;

“independent school” has the meaning assigned thereto by section 114(1) of the Education Act 1944 ;

“proprietor” means a person who has a financial interest in an accepted school otherwise than by reason only of his being employed for the purposes thereof at a salary unrelated to the profits of the school or its other performance as a commercial enterprise.

Keith Joseph,

Secretary of State for Education and Science.

11th March 1982.

We consent,

*Alastair Goodlad,
J. Selwyn Gummer,*
Two of the Lords Commissioners
of Her Majesty's Treasury.

30th March 1982.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Teachers' Superannuation Regulations 1976 and have effect as from the dates mentioned below (*Regulation 1(2)*). In so far as they have retrospective effect this is authorised by section 12(1) of the Superannuation Act 1972.

Regulation 6 of the 1976 Regulations provides for full-time service as a teacher in a further education establishment "recognised by the Secretary of State as efficient" not otherwise reckonable, to be reckonable service if the establishment is accepted for superannuation purposes (the expression "accepted school" is defined to include such an establishment so accepted). As foreshadowed in a written answer to a question in the House of Commons on 11th November 1980 (Official Report, col. 131), as from April 1982 the arrangements whereunder further education establishments are so recognised will be terminated and the criterion "recognised as efficient" will cease to be meaningful. Regulation 3 of the present Regulations, as from 1st April 1982, restates Regulation 6 of the 1976 Regulations. First, it is provided that further education establishments which were "accepted schools" before that date shall continue to be such but that, on and after that date, an establishment may only be accepted for superannuation purposes if it is constituted by the amalgamation of two or more establishments of further education including at least one "accepted school". Secondly, it is provided that, on and after that date, no person shall be employed as a teacher at a further education establishment (or a nursery school) which is an "accepted school" if, had it been one to which regulations under section 27 of the Education Act 1980 applied, his employment would be precluded by those regulations (the current such regulations are the Education (Teachers) Regulations 1982).

Regulation 4 of the present Regulations, as from 1st January 1977 (when the Regulations of 1976 came into operation), amends the provisions of Regulation 9 of those Regulations relating to the calculation of "average salary", in their application to part-time teachers, to take account of the provisions of Regulation 5(3) of the 1976 Regulations relating to the reckoning of service.

Regulation 5 of the present Regulations, with effect from 8th April 1982, amends Schedule 1 to the 1976 Regulations to take account, first, of the revocation with effect from that date of the Schools Regulations 1959 and of Regulation 16 of the Handicapped Pupils and Special Schools Regulations 1959 and, secondly, of the coming into operation on that date of Regulations under section 27 of the Education Act 1980 relating to the employment of teachers (i.e. of the Education (Teachers) Regulations 1982).

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