
STATUTORY INSTRUMENTS

1996 No. 2317 (S.185)

EDUCATION, SCOTLAND

**The Teachers (Compensation for Premature Retirement
and Redundancy) (Scotland) Regulations 1996**

<i>Made</i>	- - - -	<i>29th August 1996</i>
<i>Laid before Parliament</i>		<i>30th September 1996</i>
<i>Coming into force</i>	- -	<i>31st October 1996</i>

The Secretary of State, in exercise of the powers conferred on him by section 24 of the Superannuation Act 1972⁽¹⁾ and of all other powers enabling him in that behalf, and with the consent of the Treasury⁽²⁾, hereby makes the following Regulations:

PART I
GENERAL

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996 and shall come into force on 31st October 1996.

(2) These Regulations shall, in the circumstances and to the extent specified in regulation 21, have effect from a date earlier than the making of the Regulations.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

- (a) any reference to a numbered regulation, Part or Schedule is to be construed as a reference to the regulation, Part or Schedule, as the case may be, which bears that number in these Regulations, and any reference to a numbered paragraph in a regulation of, or a Schedule to, these Regulations is to be construed as a reference to the paragraph bearing that number in that regulation or, as the case may be, that Schedule;

⁽¹⁾ 1972 c. 11.

⁽²⁾ This function was transferred to the Treasury by the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

- (b) any reference to, or to things done or falling to be done under or for the purposes of, any provision of these Regulations is, if and so far as the nature of the reference permits, to be construed as including, in relation to circumstances or purposes in relation to which the corresponding provision in the 1980 Regulations or Part II of the 1984 Regulations had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision;
 - (c) any reference to, or to things done or falling to be done under or for the purposes of, any provision of the Superannuation Regulations is, if and so far as the nature of the reference permits, to be construed as including, in relation to circumstances or purposes in relation to which the corresponding provision in the 1977 Regulations or in previous provisions had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision; and
 - (d) any reference to the annual rate of compensation payable to a designated teacher immediately before the date of his death shall, if he died before he had been credited with an additional period of service under regulation 4, include a reference to the annual rate of compensation which would have been payable if he had been so credited before his death.
- (2) Terms used in these Regulations and in the Superannuation Regulations shall, unless the context otherwise requires, have the same meanings in these Regulations as in the Superannuation Regulations.
- (3) In these Regulations, unless the context otherwise requires—
- “the 1971 Act” means the Pensions (Increase) Act 1971(3);
 - “the 1972 Act” means the Superannuation Act 1972;
 - “the 1978 Act” means the Employment Protection (Consolidation) Act 1978(4);
 - “child” shall be construed in accordance with regulation E21(5) and (6) of the Superannuation Regulations;
 - “designated teacher” has the meaning given in regulation 4;
 - “effective service” comprises—
 - (a) any period of reckonable service up to and including the material date;
 - (b) any period of former employment which would have been reckonable service if the teacher had not made an election under regulation B6 of the Superannuation Regulations and if contributions had been paid in respect of it; and
 - (c) any period of former employment as a part-time teacher which would have been reckonable service if an election under regulation B2 of the Superannuation Regulations had had effect and if contributions had been paid in respect of it;
 - “eligible teacher” means a teacher to whom Part II applies in accordance with regulation 3;
 - “employing authority” means a body specified in Schedule 1, and in relation to a teacher means the particular such body whose employment of that teacher ceased as described in regulation 3(1)(a) or, as the case may be, 16(1);
 - “enactment” includes any instrument made under an Act;
 - “excepted payment”, in relation to an employment of a designated teacher, means a payment received by him which is—

(3) 1971 c. 56.

(4) 1978 c. 44.

- (a) a redundancy payment in respect of the cessation of that employment, including any amount by which that payment is reduced in accordance with the Redundancy Payments Pensions Regulations 1965(5); or
- (b) a payment in respect of that employment made under regulations, or under provisions having effect as provisions of regulations, made under section 9 of the 1972 Act; or
- (c) a payment in lieu of annual or other leave to which he was entitled in that employment; or
- (d) a payment in lieu of notice of termination of that employment, which does not exceed the remuneration he would have received if he had remained in that employment for a period of 3 months after the material date; or
- (e) in the case of a payment in lieu of notice of termination of that employment which exceeds that remuneration, so much of that payment as is equal to that remuneration;

“former employment”, in relation to any person, means the employment which ceased as described in regulation 3(1)(a);

“instrument” includes an Order in Council, regulation, order, rule, scheme, direction or agreement;

“material date”, in relation to any person, means the date upon which he ceased to hold his former employment in the circumstances specified in regulation 3(1)(a);

“new employment”, in relation to a designated teacher, means employment mentioned in regulation E15(1)(a) or (b) of the Superannuation Regulations which he enters after the material date;

“nominated beneficiary”, in relation to a deceased designated teacher, means a person nominated by him at the material date under regulation E22 of the Superannuation Regulations but does not include a person whose nomination ceases to have effect under paragraph (4) of that regulation;

“occupational pension”, in relation to an eligible teacher, means payments (other than lump sum payments) made in accordance with any contract, scheme or arrangement associated with his employment (whether or not as a teacher) for the payment of superannuation benefits;

“reckonable service”, in relation to a teacher, means the period of service which in terms of regulation D1 of the Superannuation Regulations the teacher is entitled to count (at the length therein prescribed) as reckonable service;

“redundancy payment” in relation to the former employment of a designated teacher, means the aggregate of—

- (a) the redundancy payment to which he is entitled under Part VI of the 1978 Act; and
- (b) any compensation which is paid to him under Part III of these Regulations, in respect of the cessation of that employment;

“the 1977 Regulations” means the Teachers' Superannuation (Scotland) Regulations 1977(6);

“the 1980 Regulations” means the Teachers' (Compensation for Premature Retirement) (Scotland) Regulations 1980(7);

“the 1984 Regulations” means the Teachers' (Compensation for Redundancy and Premature Retirement) (Scotland) Regulations 1984(8); and

(5) S.I. 1965/1932.

(6) S.I. 1977/1360, amended by S.I. 1977/1808, 1978/1507, 1980/344, 1983/369 and 1431, 1984/2028, 1988/1618, 1989/666 and 1990/383; revoked by S.I. 1992/280.

(7) S.I. 1980/1254, amended by S.I. 1982/918, 1984/845, 1986/412, 1992/1025 and 1597, 1993/490, 1993/2513, 1994/1715 and 1995/840; revoked by these Regulations.

(8) S.I. 1984/845; revoked by these Regulations.

“the Superannuation Regulations” means the Teachers' Superannuation (Scotland) Regulations 1992(9).

PART II

COMPENSATION FOR PREMATURE RETIREMENT

Teachers to whom Part II applies

3.—(1) Part II shall apply to a teacher who—

- (a) on or after the date specified in paragraph (2) has ceased to hold employment of a kind specified in paragraph (3) with an employing authority, where that authority has certified in writing to the Secretary of State that the teacher's employment has been terminated by reason of his redundancy or in the interests of the efficient exercise of the employer's functions; and
- (b) on ceasing to hold that employment—
 - (i) had attained the age of 50 years but had not attained the age of 65 years; and
 - (ii) had completed qualifying service amounting to not less than 5 years; and
- (c) is not entitled to have his case considered for the payment of compensation, in respect of loss of that employment, under regulations made under section 219 of the Local Government (Scotland) Act 1973(10) or any similar instrument.

(2) The date referred to in paragraph (1)(a) is—

- (a) where the former employment was of the kind specified in paragraph (3)(a), 1st April 1976;
- (b) where the former employment was of the kind specified in paragraph (3)(b), 6th April 1988;
- (c) where the former employment was of the kind specified in paragraph (3)(c), 1st November 1993.

(3) The kinds of employment referred to in paragraph (1)(a) are—

- (a) pensionable employment;
- (b) employment which would have been pensionable employment but for an election under regulation B6 of the Superannuation Regulations; and
- (c) employment as a part-time teacher which would have been pensionable employment if an election under regulation B2 of those Regulations had had effect.

(4) In paragraph (1)(b)(ii) “qualifying service” means effective service, except that where a teacher has spent one or more periods in part-time service the whole of each such period shall be counted as if it were qualifying service.

Discretion to credit an additional period of service

4.—(1) For the purposes of these Regulations an employing authority may, in their discretion, within the time limit specified in paragraph (2), credit an eligible teacher (including an eligible teacher who has already died) with an additional period of service not exceeding the shortest of the following periods—

(9) S.I. 1992/280, amended by S.I. 1992/1025 and 1992/1597, 1993/490 and 2513, 1994/1715 and 2699 and 1995/1670.

(10) 1973 c. 65; section 219 was repealed by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 4, Part I.

- (a) a period which, when added to his effective service and any period in respect of which he has become (or on attaining some greater age will become) entitled to an occupational pension, does not in aggregate exceed 40 years;
 - (b) a period equal to the period beginning with the day following the material date and ending with the day immediately preceding the day on which he attains the age of 65 years, less any period of residual entitlement which he has to his credit (as described in Part I of Schedule 2);
 - (c) a period equivalent to his effective service; or
 - (d) a period of 10 years.
- (2) The time limit referred to in paragraph (1) is—
- (a) where the material date was earlier than the date when these Regulations come into force and the former employment was of a kind specified in regulation 3(3)(b) or (c), 6 months after the date when these Regulations come into force;
 - (b) in any other case, 6 months after the material date.
- (3) An eligible teacher (including an eligible teacher who has already died) who is credited with an additional period of service under this regulation is referred to in these Regulations as a “designated teacher”, and any reference to a designated teacher includes any eligible teacher who at the relevant time had not been so credited but has subsequently been so credited.

Lump sum compensation and annual compensation

5.—(1) A designated teacher shall, on ceasing to hold his former employment, be entitled to receive lump sum compensation and annual compensation.

- (2) Subject to regulations 11 and 12, the amount of the lump sum compensation is
 $A - B$,

where—

A is the amount which is calculated according to the formula in regulation E7(1) of the Superannuation Regulations, subject to the substitution of the additional period of service credited under regulation 4 in place of effective reckonable service; and

B is the amount of the lump sum, if any, to which the designated teacher is to be treated, under paragraph 6 of Schedule 2, as previously entitled, calculated in accordance with paragraph 7(a) of that Schedule.

- (3) Subject to regulations 13 and 14, the rate of the annual compensation is
 $C - D$,

where—

C is the annual rate which is calculated according to the formula in regulation E6(1) of the Superannuation Regulations, subject to the substitution of the additional period of service credited under regulation 4 in place of effective reckonable service; and

D is the annual rate of allowance, if any, to which the designated teacher is to be treated, under paragraph 6 of Schedule 2, as previously entitled, calculated in accordance with paragraph 7(b) of that Schedule.

(4) Where an additional period of service is credited to an eligible teacher who has already died, any payment to which he became entitled while alive in accordance with this regulation shall be payable to his personal representatives.

Allocation of part of annual compensation

6.—(1) This regulation shall apply to a designated teacher who—

- (a) has, in accordance with regulation E12 of the Superannuation Regulations, by declaration allocated a part of the retirement pension to which, on ceasing to hold his former employment, he would otherwise be entitled; and
- (b) not later than one month after receiving, under regulation 15, written notification of the amount of his annual compensation has given notice to his employing authority that he desires this regulation to apply to him.

(2) A designated teacher to whom this regulation applies shall be entitled by declaration to allocate such part of his annual compensation as is described in paragraph (3), on the like terms and conditions and for the like consideration as if his annual compensation were a retirement pension to which he had become entitled by virtue of regulation E5(1)(f) of the Superannuation Regulations.

(3) The part of his annual compensation which a designated teacher is entitled by declaration to allocate in accordance with paragraph (2) is any part which bears a proportion to his annual compensation that is equal to or less than the proportion which the part of the retirement pension which he has by declaration allocated bears to the retirement pension to which he would otherwise be entitled.

(4) In this regulation, “annual compensation” means the annual compensation payable to a designated teacher under regulation 5, without any adjustment in accordance with regulations 11 to 14.

Short-term compensation

7.—(1) This regulation applies where a designated teacher dies and a short-term pension—

- (a) becomes payable under regulation E23 of the Superannuation Regulations; or
- (b) would have become so payable but for an election under regulation B6 of those Regulations; or
- (c) would have become so payable if an election under regulation B2 of those Regulations had had effect at any time in relation to any employment of the designated teacher as a part-time teacher.

(2) Subject to regulation 10(1), where this regulation applies short-term compensation shall be paid to, or as the case may be for the benefit of, the person or persons who are or would have been entitled to payment of the short-term pension.

(3) Short-term compensation shall not be payable to or for the benefit of the child, or as the case may be the children, of a designated teacher during any period in respect of which it is payable to a spouse or adult nominated beneficiary.

(4) Where there is more than one child, to or for the benefit of whom short-term compensation is payable in terms of this regulation, short-term compensation shall be payable jointly to or for the benefit of those children.

(5) Subject to paragraph (6), the rate of the short-term compensation is the rate at which the annual compensation would have been payable to the designated teacher immediately before his death if no account had been taken of any reduction under regulation 12(3), 13 or (insofar as concerns a reduction under paragraph 7 of Schedule 4) 14(2).

(6) If at the time of his death the designated teacher was in new employment in which he was in pensionable employment, he is for the purposes of paragraph (5) to be treated as if he had ceased to be in that employment immediately before his death and as if regulation 14(2) had accordingly applied.

Adults' long-term compensation

- 8.—(1) This regulation applies where a designated teacher dies and a long-term pension—
- (a) becomes payable under regulation E25 of the Superannuation Regulations; or
 - (b) would have become so payable but for an election under regulation B6 of those Regulations; or
 - (c) would have become so payable if an election under regulation B2 of those Regulations had had effect at any time in relation to any employment of the designated teacher as a part-time teacher.

(2) Subject to regulation 10, where this regulation applies long-term compensation shall be paid to, or as the case may be for the benefit of, every person who became or would have become entitled to payment of a long-term pension.

(3) Subject to paragraph (4), the rate of the long-term compensation is one half of the rate at which the annual compensation would have been payable to the designated teacher immediately before his death if no account had been taken of any allocation under regulation 6 or any reduction under regulation 11, 12 or (insofar as concerns a reduction under paragraph 7 of Schedule 4) 14(2).

(4) If at the time of his death the designated teacher was in new employment in which he was in pensionable employment, he is for the purposes of paragraph (3) to be treated as if he had ceased to be in that employment immediately before his death and as if regulation 14(2) had accordingly applied.

Children's long-term compensation

- 9.—(1) This regulation applies where a designated teacher dies and a long-term pension—
- (a) becomes payable under regulation E25(5) or (6) of the Superannuation Regulations; or
 - (b) would have become so payable but for an election under regulation B6 of those Regulations; or
 - (c) would have become so payable if an election under regulation B2 of those Regulations had had effect at any time in relation to any employment of the designated teacher as a part-time teacher.

(2) Subject to regulation 10, where this regulation applies long-term compensation shall be paid to, or as the case may be for the benefit of, every person who became or would have become entitled to payment of a long-term pension.

(3) The rate of the long-term compensation payable shall be ascertained from the table below.

TABLE

(1) Number of children compensation where adult's long-term compensation is payable under regulation 8	(2) Annual rate of children's long-term long-term compensation where no adult's long-term compensation is payable under regulation 8	(3) Annual rate of children's
1	One quarter of the designated teacher's annual compensation	One third of the design ated teacher's annual compensation
2 or more	One half of the designated teacher's annual compensation	Two thirds of the design ated teacher's annual compensation

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4) Subject to paragraph (5), for the purposes of paragraph (3) “the designated teacher’s annual compensation” means the rate of annual compensation which would have been payable to the designated teacher immediately before his death if no account had been taken of any allocation under regulation 6 or any reduction under regulation 11, 12 or (insofar as concerns a reduction under paragraph 7 of Schedule 4) 14(2).

(5) If at the time of his death the designated teacher was in new employment in which he was in pensionable employment, he is for the purposes of paragraph (4) to be treated as if he had ceased to be in that employment immediately before his death and as if regulation 14(2) had accordingly applied.

Payment of compensation under regulations 7, 8 and 9

10.—(1) Subject to paragraphs (3) and (4), a person’s short-term compensation payable under regulation 7 shall be payable from the day after that of the designated teacher’s death and the duration of the short-term compensation payable shall be ascertained from the table below.

TABLE

Person falling within regulation E23(2) of the Superannuation Regulations	Duration of compensation (months)
Spouse or nominated beneficiary with no child	3
Spouse or nominated beneficiary with one child or more	6
Child or children (where there is no spouse or nominated beneficiary)	6

(2) Subject to paragraphs (3) and (4), a person’s long-term compensation payable under regulation 8 or 9 shall be payable—

- (a) from the day following that on which his short-term compensation ceases to be payable; or
- (b) if no short-term compensation is payable, from the day after that of the designated teacher’s death,

and is payable for life.

(3) Unless the employing authority determines otherwise in a particular case, short-term or long-term compensation payable to or in respect of any person under regulation 7, 8 or 9—

- (a) shall not be payable during any marriage or period of cohabitation as man and wife outside marriage; but
- (b) if the employing authority so decides, may be payable upon the former recipient again becoming a widow or widower or on the termination of any such marriage or, as the case may be, of that period of cohabitation.

(4) Short-term or long-term compensation payable to or for the benefit of a child under regulation 7 or 9 shall cease to be payable when he ceases to be a child.

- (a) (5) (a) This paragraph applies where two or more designated teachers confer on the same child or, as the case may be children, entitlement to compensation (whether short-term or long-term).
- (b) Where this paragraph applies the child or, as the case may be, children shall be entitled to receive payment of compensation in respect of not more than two designated teachers but where entitlement derives from three or more teachers the child or, as the case may be, children shall be entitled to receive payment of compensation in respect of the two teachers which will provide compensation of the largest amounts.

(6) In this regulation, payment of compensation means any payment or series of payments of compensation which may be paid to any person in terms of these Regulations.

Adjustment of compensation to take account of redundancy payments

11. Where—

- (a) the period of a designated teacher’s additional service exceeds 62/3 years; and
- (b) he has received, or is entitled to receive, a redundancy payment in respect of the cessation of his former employment,

his compensation under this Part of these Regulations shall be reduced in accordance with Schedule 3.

Adjustment of compensation to take account of other payments

12.—(1) This regulation applies to a designated teacher who receives a termination payment on ceasing to hold his former employment.

(2) The lump sum compensation payable to a designated teacher to whom this regulation applies shall be reduced by the amount of the termination payment and, if the termination payment exceeds the lump sum compensation, the amount of the excess (hereinafter referred to as the “excess amount”) shall be dealt with in accordance with paragraph (3).

(3) Where there is an excess amount, the excess amount shall be deducted from the instalments of annual compensation as they accrue, so that no instalment becomes payable to the designated teacher until the aggregate of deductions from instalments equals the excess amount.

(4) In this regulation—

“annual compensation” means the annual compensation payable to a designated teacher under regulation 5, adjusted as may be necessary in accordance with regulations 6, 11 and 13(2) and (insofar as concerns a reduction under paragraph 4 of Schedule 4) 14(2);

“lump sum compensation” means the lump sum compensation payable to a designated teacher under regulation 5, adjusted as may be necessary in accordance with regulation 11; and

“termination payment” means, in relation to a designated teacher, the aggregate of any lump sum payments made to him by his employing authority, in consequence of or as compensation for the loss of his former employment, under an enactment (whenever enacted) or under a contract or arrangement with that authority, but does not include—

- (a) an excepted payment in relation to that employment, or
- (b) his lump sum compensation.

Adjustment of compensation where a designated teacher is in new employment

13.—(1) This regulation applies to a designated teacher who enters new employment.

(2) The rate of annual compensation payable to a designated teacher to whom this regulation applies shall, for so long as he holds a new employment, be calculated in accordance with Part I of Schedule 4.

(3) Where, in relation to any designated teacher, two or more awards of annual compensation fall to be reduced in accordance with this regulation, each such award shall be reduced in proportion to its amount.

(4) In this regulation and Part I of Schedule 4, “the rate of annual compensation” means the rate at which compensation is payable to a designated teacher under regulation 5(3), adjusted in accordance with regulations 6, 11 and 14(2).

Adjustment of compensation where a designated teacher has ceased to be in new employment

14.—(1) This regulation applies to a designated teacher who has ceased to hold a new employment.

(2) The annual compensation of a designated teacher to whom this regulation applies shall be reduced in the manner prescribed in Part II of Schedule 4, if the aggregate of

$$A + B + C \text{ exceeds } D,$$

where—

A is his effective service;

B is any period of the new employment which he is entitled, or would have been entitled if the new employment had been pensionable employment and contributions had been paid in respect of it, to count as reckonable service;

C is any period of residual entitlement which he has to his credit (as described in Part I of Schedule 2); and

D is what his effective reckonable service would be if he held—

- (a) if sub-paragraph (b) or (c) does not apply, his former employment; or
- (b) if a period of extra service has been granted to him in respect of one cessation of employment which occurred before the material date, that employment; or
- (c) if a period of extra service has been granted to him in respect of more than one such cessation, the first such employment to cease,

until he had attained the age of 65 years.

(3) For the purposes of paragraph (2), the reckonable service of a designated teacher shall include service which, but for this paragraph, would have ceased to be reckonable service by reason of a transfer value having been paid, as described in regulation F1 of the Superannuation Regulations.

(4) In this regulation—

- (a) “annual compensation”, in relation to a designated teacher, means the annual compensation payable to him under regulation 5 adjusted as may be necessary in accordance with—
 - (i) regulations 6 and 11; and
 - (ii) if he has held a previous new employment, this regulation, in relation to that employment, but disregarding any reduction under paragraph 4 of Schedule 4;
- (b) “period of extra service” has the meaning given in paragraph 5(b) of Schedule 2; and
- (c) “previous new employment” means a new employment which ceased before cessation of the new employment referred to in paragraph (1).

Notification of compensation

15. An employing authority, after—

- (a) crediting an eligible teacher with an additional period of service under regulation 4;
- (b) the death of a designated teacher; or
- (c) making any adjustment in accordance with regulations 11 to 14,

shall as soon as reasonably practicable give the teacher or other person or persons to whom compensation is payable in accordance with this Part written notification of the compensation payable or of any adjustment and, in each case, of the calculation thereof.

PART III

ADDITIONAL COMPENSATION FOR REDUNDANCY

Additional compensation in certain cases of redundancy

16.—(1) This regulation applies to a teacher who, on or after the date upon which these Regulations come into force, ceases to hold employment of a kind specified in paragraph (3) with an employing authority and becomes entitled to a redundancy payment under Part VI of the 1978 Act.

(2) The employing authority may award the teacher compensation of an amount which does not exceed the difference between—

- (a) the redundancy payment to which he is entitled under Part VI of the 1978 Act; and
 - (b) the redundancy payment to which he would have been so entitled if paragraph 8(1)(c) of Schedule 14 to the 1978 Act⁽¹¹⁾ (weekly pay in excess of specified limit to be disregarded in calculating redundancy payment) had been repealed.
- (3) The kinds of employment mentioned in paragraph (1) are—
- (a) pensionable employment;
 - (b) employment which would have been pensionable employment but for an election under regulation B6 of the Superannuation Regulations; and
 - (c) employment as a part-time teacher which would have been pensionable employment if an election under regulation B2 of those Regulations had had effect.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Supply of information

17. A person to whom compensation is payable in accordance with these Regulations shall—

- (a) furnish all such information as the employing authority may at any time reasonably require and shall verify that information in such manner, including the production of documents in his possession or control, as may be reasonably so required; and
- (b) where he is a designated teacher, not later than one month after his entering or ceasing to hold a new employment, give his employing authority written notification of that fact.

Procedure for payment of compensation

18.—(1) Compensation (other than lump sum compensation) which is payable to a person under Part II of these Regulations shall be payable at intervals equivalent to those at which his retirement pension, or as the case may be short-term or long-term pension, is payable under the Superannuation Regulations, or would be payable were he entitled to such pension, or at such other intervals as may be agreed between him and the employing authority.

(2) Subject to any statutory provision in that behalf, any compensation payable under these Regulations shall be payable to, or in trust for, the person entitled to receive the compensation and shall not be assignable.

⁽¹¹⁾ Paragraph 8(1)(c) was relevantly amended by S.I. [1992/312](#).

(3) Without prejudice to any other right of recovery, any compensation paid in error may be recovered by the employing authority by deduction from any compensation payable under these Regulations.

Paying authority

19.—(1) Subject to paragraph (2), compensation payable to any person by virtue of these Regulations shall be paid by the employing authority.

(2) Where a teacher was formerly employed in one of the educational establishments listed in paragraphs 2 to 6, or in paragraph 8, of Schedule 1, the Secretary of State shall, on closure of that establishment, become liable to meet the cost of compensation, except where—

- (a) the board of management of an educational establishment referred to in paragraph 5 of Schedule 1 is dissolved by an order made under section 25 of the Further and Higher Education (Scotland) Act 1992⁽¹²⁾; or
- (b) the governing body of an educational establishment referred to in paragraph 6 of Schedule 1 is dissolved by an order made under section 47 of that Act,

and the order provides for transfer to any person or body of the liability to pay the compensation.

(3) For the purposes of paragraph (2) the date of closure—

- (a) of an educational establishment referred to in paragraph 2 of Schedule 1 shall be the date on which the board of management ceases to manage the school and the Secretary of State's duty to maintain the school ceases in accordance with section 31 of the Self-Governing Schools etc. (Scotland) Act 1989⁽¹³⁾ or, if earlier, the date on which the Secretary of State ceases to maintain the school in accordance with section 33 of that Act;
- (b) of an educational establishment referred to in paragraph 3 of Schedule 1 shall be the date on which the establishment no longer requires to be registered under Part IV of the Social Work (Scotland) Act 1968⁽¹⁴⁾;
- (c) of the educational establishment referred to in paragraph 4 of Schedule 1 shall be the date on which the school ceases to be a grant-aided school as defined in section 135(1) of the Education (Scotland) Act 1980⁽¹⁵⁾;
- (d) of an educational establishment referred to in paragraph 5 of Schedule 1 shall be the date with effect from which the board of management of the establishment is dissolved by an order made under section 25 of the Further and Higher Education (Scotland) Act 1992;
- (e) of an educational establishment referred to in paragraph 6 of Schedule 1 shall be the date with effect from which the governing body of the establishment is dissolved by an order made under section 47 of the Further and Higher Education (Scotland) Act 1992; and
- (f) of the educational establishment referred to in paragraph 8 of Schedule 1 shall be such date as that establishment is dissolved.

Revocations and transitional provisions

20.—(1) The regulations specified in Schedule 5 are hereby revoked to the extent specified in that Schedule.

(2) Anything done under or by virtue of any provision of the 1980 Regulations or Part II of the 1984 Regulations shall be deemed to have been done under or by virtue of the corresponding

(12) 1992 c. 37.

(13) 1989 c. 39.

(14) 1968 c. 49.

(15) 1980 c. 44; the relevant definition was amended by the Education (Scotland) Act 1981 (c. 58), section 5(2) and the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(22)(b).

provision of these Regulations and anything begun under the 1980 Regulations or Part II of the 1984 Regulations may be continued under these Regulations as if begun under these Regulations.

(3) Where a period of time specified in, or applying by virtue of, a provision of the 1980 Regulations is current at the commencement of these Regulations, these Regulations have effect as if the corresponding provision of these Regulations had been in force when that period began to run.

Retrospective effect in certain cases

21. If the material date in respect of any teacher is before the date when these Regulations come into force and the teacher is credited with an additional period of service under regulation 4, regulations 5 to 15 and (so far as relevant) Parts I and IV shall have effect in respect of that teacher from the material date.

St Andrew's House Edinburgh
11th August 1996

James Douglas-Hamilton
Minister of State, Scottish Office

We consent,

29th August 1996

Roger Knapman
Bowen Wells
Two of the Lords Commissioners of Her
Majesty's Treasury

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SCHEDULE 1

Regulation 2(3)

employing authorities

- (a) (a) In relation to any time before 1st April 1996, a regional council or an islands council or a district council;
 - (b) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽¹⁶⁾.
2. The board of management of a self-governing school within the meaning of section 1(3) of the Self-Governing Schools etc. (Scotland) Act 1989.
 3. The managers of a grant-aided school (as defined in section 135(1) of the Education (Scotland) Act 1980) which immediately before the commencement of Part III of the Social Work (Scotland) Act 1968 was a school approved under section 83 of the Children and Young Persons (Scotland) Act 1937⁽¹⁷⁾ and which did not cease to be so approved prior to 1st April 1986⁽¹⁸⁾, if the pensionable employee was employed by those managers on 31st March 1986.
 4. Jordanhill School Ltd, Glasgow, being the company limited by guarantee and incorporated under the Companies Act 1985⁽¹⁹⁾ which manages Jordanhill School, Glasgow.
 5. The board of management of a college of further education which is managed by such a board in terms of Part I of the Further and Higher Education (Scotland) Act 1992.
 6. The governing body of a designated institution within the meaning of section 44(2) of the Further and Higher Education (Scotland) Act 1992.
 7. The University of Strathclyde and the University of Dundee.
 8. The Scottish Further Education Unit, being the company limited by guarantee and incorporated under the Companies Act 1985 which manages the educational establishment of that name.

SCHEDULE 2

other entitlement

Regulations 4(1)(b) and 14(2)

PART I

RESIDUAL ENTITLEMENT

1. Where a designated teacher has been credited with a period of extra service in respect of the cessation of an employment before the material date, he shall, for the purposes of regulation 4(1)(b), have to his credit a period of residual entitlement, which shall be calculated in accordance with paragraph 3.
2. Where a designated teacher ceases to hold a new employment, he shall, for the purposes of regulation 14(2), have to his credit a period of residual entitlement, which shall be calculated in accordance with paragraph 4.

(16) 1994 c. 39.

(17) 1937 c. 37; section 83 was repealed by Part I of Schedule 9 to the Social Work (Scotland) Act 1968 (c. 49).

(18) 1st April 1986 was the date of the Secretary of State's direction in terms of paragraph 2(1) of Schedule 7 to the Social Work (Scotland) Act 1968.

(19) 1985 c. 6.

3. For the purposes of regulation 4(1)(b), a designated teacher's period of residual entitlement shall, subject as mentioned in paragraph 5(d), be

$$(A + B + C) - D,$$

where—

A is the period of extra service credited to him, reduced as necessary in accordance with paragraph 5(e);

B is the period of his former employment;

C is the aggregate of any periods falling between the first cessation of employment that gave rise to A and the commencement of the former employment during which he was in pensionable employment or in employment which would have been pensionable employment but for an election under regulation B6 of the Superannuation Regulations; and

D is the period beginning with the date immediately following the first cessation of employment which gave rise to A and ending on the material date.

4. For the purposes of regulation 14(2), a designated teacher's period of residual entitlement shall be the aggregate of—

(a) any period of extra service granted to him, reduced as may be necessary in accordance with paragraph 5(e); and

(b) the period of additional service credited under regulation 4, reduced as may be necessary in accordance with paragraph 5(f).

5. In this Part—

(a) “first cessation”, in relation to a designated teacher, means—

(i) if a period of extra service has been granted to him in respect of one cessation of employment, that cessation; or

(ii) if a period of extra service has been granted to him in respect of more than one such cessation, the first of those cessations;

(b) “period of extra service”, in relation to a designated teacher, means a period by which his service has been increased or the period of service with which he has been credited, before the material date, for the purpose of calculating—

(i) retirement compensation under regulations made under section 219 of the Local Government (Scotland) Act 1973, or a similar instrument, on account of loss of employment; or

(ii) benefit under regulations made under section 220 of the Local Government (Scotland) Act 1973(20), or a similar instrument; or

(iii) compensation under any scheme made under section 1 of the 1972 Act, or a similar instrument, on account of his retirement in the public interest; or

(iv) compensation under these Regulations or any other regulations made under section 24 of the 1972 Act, or a similar instrument, on account of his ceasing to hold an employment with an authority by reason of redundancy or in the interests of the efficient exercise of the functions of that authority,

or, if more than one period of extra service has been credited to him, the aggregate of those periods;

(c) “similar instrument” means any instrument made under any provision to the like effect in any other enactment (whenever enacted);

(20) 1973 c. 65; section 220 was repealed by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 4, Part I.

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- (d) in a case where period D described in paragraph 3 exceeds the aggregate of periods A, B and C described in that paragraph, no account shall be taken of the excess;
- (e) where a person, after his first cessation, has ceased to hold an employment and his—
 - (i) period of extra service has been reduced by; or
 - (ii) compensation or benefit, attributable to a period of service, has been reduced on account of,

the period of that employment or a part thereof (in this sub-paragraph referred to as “that period”), period A described in paragraph 3 or, as the case may be, his period of extra service for the purposes of paragraph 4(a) shall be reduced by that period; and
- (f) where a designated teacher’s annual compensation has been reduced in accordance with regulation 14 on account of a period of previous new employment or a part thereof (in this sub-paragraph referred to as “that period”), the period of his additional service shall, for the purposes of paragraph 4(b), be reduced by that period; and in this sub-paragraph “annual compensation” has the meaning given in regulation 14(4)(a), and “previous new employment” has the meaning given in regulation 14(4)(c).

Regulation 5(2) and (3)

PART II

PREVIOUS ENTITLEMENT

6. Where a designated teacher has become entitled to receive a lump sum, or an allowance for life or other period, under an enactment (whenever enacted) or under a contract or arrangement with his employer as compensation for loss of an employment, or his retirement or removal from an employment, which loss, retirement or removal occurred before the material date and that lump sum or allowance—

- (a) is not compensation or benefit described in paragraph 5(b), or an excepted payment in relation to that employment; and
- (b) was calculated by reference to a period of service which the employing authority has taken into account for the purpose of granting him additional service,

he shall be treated as previously entitled to the lump sum or allowance for the purposes of regulation 5.

7. The amount of the lump sum or allowance to which a designated teacher is previously entitled shall be ascertained in the following manner:—

- (a) for the purposes of regulation 5(2), the amount is an amount equal to—

$$A \times \frac{C}{D}$$

and

- (b) for the purposes of regulation 5(3), the amount is an amount equal to—

$$B \times \frac{C}{D}$$

where—

A is the amount of the lump sum first referred to in paragraph 6;

B is the annual rate of the allowance which is payable in respect of a period beginning after the material date;

C is the period of service referred to in paragraph 6(b), expressed in years and fractions of a year; and

D is the period of service which the employer took into account for the purpose of granting him the lump sum or allowance first referred to in paragraph 6, expressed in years and fractions of a year.

SCHEDULE 3

Regulation 11

adjustment on account of redundancy payments

1. The compensation of a designated teacher to whom regulation 11 applies shall be reduced as follows:—

(a) where his lump sum compensation—

(i) exceeds the amount ascertained under paragraph 2, it shall be reduced by that amount; or

(ii) is equal to the amount ascertained under that paragraph, it shall not be payable; or

(iii) is exceeded by the amount ascertained under that paragraph, it shall not be payable, and his annual compensation shall be reduced in accordance with sub-paragraph (b); and

(b) his annual compensation shall be reduced by an amount the capital value whereof is equal to—

(i) the outstanding balance (if any); or

(ii) where he is, apart from the provisions of sub-paragraph (a), not entitled to receive lump sum compensation, the amount ascertained under paragraph 2,

such reduction to be calculated in accordance with paragraph 3.

2. The amount ascertained under this paragraph is equal to—

$$\left(\frac{3R}{10} \times E\right) - Y$$

where—

E is the period of the designated teacher's additional service, expressed in years and fractions of a year, which is in excess of $6\frac{2}{3}$ years;

R is the amount of the redundancy payment referred to in regulation 11(b); and

Y is any amount by which the payment is reduced in accordance with the Redundancy Payments Pensions Regulations 1965(21).

3. The amount by which the annual compensation payable to a designated teacher is to be reduced in the circumstances described in paragraph 1(b) shall be calculated in accordance with the following table:—

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TABLE

Age last birthday	Reduction of annual compensation per £100 of the outstanding balance or of the amount ascertained under paragraph 2	
	Male £	Female £
50	5.93	5.43
51	6.00	5.47
52	6.08	5.53
53	6.18	5.61
54	6.30	5.72
55	6.44	5.84
56	6.59	5.97
57	6.75	6.11
58	6.92	6.25
59	7.10	6.39
60	7.29	6.54
61	7.50	6.70
62	7.73	6.87
63	7.97	7.05
64	8.22	7.24

4. In this Schedule—

- (a) “annual compensation” means the annual compensation payable to a designated teacher under regulation 5;
- (b) “lump sum compensation” means the lump sum compensation payable to him under regulation 5; and
- (c) “outstanding balance” means the amount of the excess described in paragraph 1(a)(iii).

SCHEDULE 4

adjustment on account of new employment

Regulation 13

PART I

REDUCTION OF ANNUAL COMPENSATION DURING NEW EMPLOYMENT

1. The rate of annual compensation payable to a designated teacher shall, whilst he holds new employment, be so reduced or suspended (if necessary) as to ensure that his earnings together with his annual pension and his annual compensation (including any increase under Part I of the 1971 Act) shall not exceed his salary of reference.

2. For the purposes of this Part of this Schedule—
- (a) the rate of earnings at the commencement of the period of new employment shall be deemed to remain constant throughout the period of employment, provided that where there is a change of grade, or any other change in the conditions or terms of the employment which in the opinion of the employing authority constitutes a variation in the employment, the rate of earnings shall be taken to be that payable on the commencement of such change; and
 - (b) the salary of reference of a designated teacher shall be the highest salary rate received during the last three years of pensionable employment or comparable British service, whether continuous or not, before his annual compensation became payable to him, provided that—
 - (i) if during that period the designated teacher has paid superannuation contributions on a previous higher salary under previous provisions and that salary is more favourable, it shall be the salary of reference;
 - (ii) the salary of reference shall be reduced by the amount of any part of the annual pension which the designated teacher has allocated under regulation E12 of the Superannuation Regulations or previous provisions or under any corresponding provisions applicable to teachers in comparable British service and by the amount of any part of the annual compensation which he has allocated under regulation 6;
 - (iii) the salary of reference so reduced by the amount (if any) specified in head (ii) above shall be increased by the amount (if any) which would have been due to the designated teacher under Part I of the 1971 Act if the salary of reference before being so reduced had been an annual pension coming into payment on the date following his last day of reckonable or comparable British service; and
 - (c) “annual pension” includes any annual pension that would be payable to a designated teacher but for any transfer of benefits to another pension scheme.

Regulation 14(2)

PART II

REDUCTION OF ANNUAL COMPENSATION ON CESSATION OF NEW EMPLOYMENT

3. The annual compensation of a designated teacher to whom regulation 14 applies shall be reduced as described in this Part of this Schedule.

4. The annual compensation shall be reduced by—

$$\frac{A}{80} \times B,$$

where—

A is the shortest of C, D or E; and

B is the smaller of his pensionable salary and the amount specified in paragraph 6.

5. For the purposes of paragraph 4—

C is the additional period of service with which he is credited under regulation 4,

D is, in relation to his new employment, the period he is entitled, or would be entitled if it had been reckonable service (excluded employment), to count as reckonable service; and

E is the period of excess calculated in accordance with regulation 14(2).

6. The amount is—

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$$F - \frac{F \times G}{G + 100}$$

where—

F is the pensionable salary in his new employment; and

G is the amount by which an official pension within the meaning of the 1971 Act would, by the day after the cessation of the new employment, have increased if it had begun, and first qualified for increases under that Act, on the day after the material date and had then been payable at an annual rate of £100.

7.—(1) In addition to the reduction calculated in accordance with paragraph 4, the annual compensation shall be reduced by three times the reduction under paragraph 4 and payment of instalments of annual compensation shall be suspended until the reduction required by this paragraph has been achieved.

(2) For the purposes of sub-paragraph (1), “annual compensation” means the annual compensation payable to the designated teacher after reduction under paragraph 4.

SCHEDULE 5

Regulation 20(1)

REVOCATIONS

(1) Regulations revoked	(2) References	(3) Extent of revocation
The Teachers' (Compensation for Premature Retirement) (Scotland) Regulations 1980	S.I. 1980/1254	The whole Regulations
The Teachers' (Compensation for Premature Retirement) (Scotland) Amendment Regulations 1982	S.I. 1982/918	The whole Regulations
The Teachers' (Compensation for Redundancy and Premature Retirement) (Scotland) Regulations 1984	S.I. 1984/845	The whole Regulations
The Teachers (Compensation for Premature Retirement) (Scotland) Amendment Regulations 1986	S.I. 1986/412	The whole Regulations
The Teachers' (Superannuation and Compensation for Premature Retirement) (Scotland) Amendment Regulations 1993	S.I. 1993/2513	Regulations 18 to 21

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for compensation for premature retirement of certain teachers and also provide for compensation on redundancy to certain teachers in addition to the normal statutory compensation. They consolidate and replace the provisions of the Teachers' (Compensation for Premature Retirement) (Scotland) Regulations 1980 ("the 1980 Regulations"), the Teachers' (Compensation for Redundancy and Premature Retirement) (Scotland) Regulations 1984 and relevant amending instruments. Some amendments of substance are made compared to the previous provisions.

Part I provides for citation, commencement and interpretation.

Part II provides for payment of compensation for premature retirement of teachers.

Regulation 3 determines the teachers eligible for such compensation. They must be employed by local authorities or certain other employers specified in Schedule 1. They must be aged between 50 and 65 and have been prematurely retired by their employers on grounds of redundancy or in the interests of the efficiency of their employers' functions. They must have been retired from employment which—

- (a) is pensionable under the Teachers' Superannuation (Scotland) Regulations 1992 ("the Superannuation Regulations"); or
- (b) would be pensionable under the Superannuation Regulations if the teacher had not opted out of those Regulations; or
- (c) would be pensionable under the Superannuation Regulations if the teacher was a part-time teacher and had opted into those Regulations.

Teachers retiring from the kinds of employment described at (b) and (c) become eligible for compensation for the first time under these Regulations. The 1980 Regulations applied only to pensionable employment.

The date of premature retirement ("the material date") may be before or after the date when the Regulations come into force, but cannot be earlier than certain specified dates.

Compensation for premature retirement is at the discretion of the employing authority and takes the form of additional superannuation benefits payable to the teacher or his dependants, similar to those under the Superannuation Regulations, but payable by the employing authority, not the Secretary of State. Regulation 4 enables the employing authority within 6 months from the material date to credit the teacher with an additional period of service on the basis of which the benefits will be calculated. For the two categories of teachers who become eligible for the first time under the Regulations, where the material date is before the legislation comes into force the employing authority may credit them with additional service within 6 months of the Regulations coming into force.

Regulations 5 to 15 provide for the benefits payable where additional service has been credited. A change compared to the 1980 Regulations is that short-term compensation due to a spouse or nominated beneficiary with a child, or due to a child, is payable for 6 months instead of 3 months.

Part III provides for compensation payments to teachers employed by employing authorities specified in Schedule 1 when they are made redundant. They must have been employed in the same kinds of employment as listed earlier in this note in relation to regulation 3. Once again, the kinds of employment (b) and (c) described there become eligible for the first time under these Regulations. The Employment Protection (Consolidation) Act 1978 provides for compensation payments to be

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made to employees in cases of redundancy but limits the level of the employees' earnings to be taken into account in the calculation of such payments. Part III gives employing authorities the power to make additional compensation payments up to a maximum of the difference between the amount payable under the 1978 Act and the amount which would have been payable had there been no earnings limits specified in that Act.

Part IV makes supplemental provision.

Regulations 1(2) and 21 provide that, where a teacher is credited with additional service in respect of premature retirement at a material date before these Regulations come into force, the provisions of the Regulations for payment of benefits in respect of that service will have effect from the material date. Retrospection is authorised by section 24(3) of the Superannuation Act 1972. No beneficiary is placed in a worse position by such retrospection.