

---

STATUTORY INSTRUMENTS

---

**1996 No. 2317**

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

**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(1) 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.

---

(1) 1973 c. 65; section 219 was repealed by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 4, Part I.

### **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—

- (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

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

(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.