
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Teachers' Superannuation (Scotland) Regulations 2005 ("the principal Regulations") and the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995 ("the AVC Regulations").

Regulations 2 to 22 deal with changes to the principal Regulations.

Regulations 3 and 5(a) make provision in relation to additional paternity leave and additional statutory paternity pay, treating such matters in the same way as paternity leave and statutory paternity pay.

Regulations 4 to 7 make changes to the arrangements for members to opt into and out of the Scottish Teachers' Superannuation Scheme ("the Scheme"). This is to assist employers with employees in, or eligible to join, the Scheme in complying with certain of the requirements set out in the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 (S.I. 2010/772). Those Regulations prescribe arrangements, in terms of Chapter 1 of Part 1 of the Pensions Act 2008 ("the 2008 Act"), for employers to enrol jobholders who are not active members of a pension scheme into a compliant scheme with effect from the automatic enrolment date, to process opt-out notices where these are received, and to re-enrol those who opt out at three-yearly intervals.

There is an extended phasing-in of the employers' duties under the 2008 Act. Some of the amendments to the principal Regulations apply only when the automatic enrolment date has been reached. The employer is under a duty to enrol jobholders who are not members of any scheme into an eligible scheme without requiring any election by the jobholder.

These Regulations also introduce the power for a member to opt into and out of the Scheme in respect of individual employment contracts.

Regulation 8 removes regulations C4 and C4A from the principal Regulations. Relevant replacement provision is now made by paragraphs (2) to (5) of new regulation B8A (inserted in the principal Regulations by regulation 7).

Regulations 9, 17 and 20 introduce a standard rate of interest that will apply in all cases where interest is payable on monies due to the Scottish Teachers' Superannuation Scheme. The interest rates in respect of the arrears of employer and member contributions are being harmonised. Previous provisions contained different rates of interest for different circumstances with no clear justification for the various rates. On grounds of simplification, a single standard rate is being introduced equal to the SCAPE discount rate.

Regulation 10 removes the requirement for a teacher to take a lump sum prior to attaining age 75. A lump sum can be paid to a member over the age of 75, provided the member applied for the benefits and any elective lump sum before the age of 75 and provided the lump sum is paid within 12 months of the application in line with overriding legislation governing "authorised payments".

Regulation 11 corrects a typographical error.

Regulation 12 substitutes regulation E21 of the principal Regulations, as it is not possible to pay a short-service incapacity grant to a person solely on grounds of incapacity. Unless the teacher has limited life expectancy, the grant would be an unauthorised payment (hence the change to the title of the regulation).

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

Regulation 13 inserts a new regulation to deal with circumstances where a person's only entitlement would be to a repayment, but a repayment would be an unauthorised payment (i.e. because the repayment is linked to further employment).

Regulation 14 amends regulation E24 of the principal Regulations to clarify that an out of service death grant at the rate of $\frac{3}{80}$ ths x pensionable salary x reckonable service is payable for all deferred members, including those with a normal pension age of 65.

Regulation 15 amends regulation G2 of the principal Regulations to clarify that a teacher who was employed in comparable British service can transfer those benefits at any time.

Regulation 16 removes the requirement to have an actuarial review and regulation 18 makes consequential amendments to regulation H3 of the principal Regulations.

Regulation 19 removes regulations H5 and H5A from the principal Regulations. Relevant replacement provision is now made by regulation B8A(6) (inserted into the principal Regulations by regulation 7).

Regulation 21 provides for the annual allowance charge.

Regulation 22 inserts into Schedule 1 to the principal Regulations 2005 definitions relevant to the amendments made by these Regulations.

Regulations 23 to 26 deal with changes to the AVC Regulations.

The amendments in regulations 24 and 26 provide an option, additional to those presently available, to a person making an election regarding annuities to be purchased. The additional option is for the annuity to increase in accordance with a prices index other than the retail prices index (for example, the consumer prices index).

The effect of the amendment in regulation 25(1) is that individuals who have already become entitled to retirement benefits may request the payment to another registered pension scheme of a transfer value of funds arising from the investment of additional voluntary contributions (in addition to others who may already do so). The amendment in regulation 25(2) provides that such a transfer value is not payable where the individual has made an election for the purchase of an annuity and, if relevant, payment of a lump sum.

An impact assessment has not been produced for this instrument as it has no impact on businesses or third sector organisations. The instrument has a minimal impact on the public sector.