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STATUTORY INSTRUMENTS

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1985 No. 1844

EDUCATION, ENGLAND AND WALES

**The Teachers' Superannuation (Amendment) Regulations 1985**

*Made* - - - - - 27th November 1985  
*Laid before Parliament* 11th December 1985  
*Coming into Operation* 1st January 1986

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:—

PART I

GENERAL

1. These Regulations may be cited as the Teachers' Superannuation (Amendment) Regulations 1985.
  
2. These Regulations shall come into operation on 1st January 1986 but shall have effect—
  - (a) for the purposes of Part II thereof, as from 1st January 1977;
  - (b) for the purposes of Part III thereof, as from 1st October 1983;
  - (c) for the purposes of Part IV thereof, as from 1st April 1984;
  - (d) for the purposes of Part V thereof, as from 11th May 1984;
  - (e) for the purposes of Part VI thereof, as from 1st August 1984;
  - (f) for the purposes of Part VII thereof, as from 8th November 1985.
  
3. In these Regulations a reference to the principal Regulations is a reference to the Teachers' Superannuation Regulations 1976(b).

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(a) 1972 c. 11.

(b) S.I. 1976/1987; the relevant amending instruments are S.I. 1978/422, 1422, 1979/1206, 1980/919, 1982/967.

## PART II

## AMENDMENTS TAKING EFFECT AS FROM 1ST JANUARY 1977

4. In Regulation 9(6) (Average salary) of the principal Regulations, in the definition of "full salary" there shall be inserted after the words "full salary" the words "in relation to a teacher whose salary is reduced during absence on sick (including maternity) leave means salary at the annual rate at which it would have been paid but for such reduction, and".

5. The following provisions of the principal Regulations (which relate to the provisions in Regulation 61 excluding periods of further service of less than 365 days from the requirement to re-calculate annual allowances where a teacher to whom such an allowance has become payable is again employed in reckonable service) shall cease to have effect in relation to any period of further service which was subsisting on 6th April 1978 or commenced on or after that date—

- (i) Regulation 19(1) and (4) (prescribing the circumstances in which a teacher to whom contributions have been repaid may, on subsequent employment in reckonable service, return them, with interest, to the Secretary of State);
- (ii) Regulation 52(1) (providing for the repayment of contributions on re-employment where no subsequent annual allowance is payable);
- (iii) in Regulation 52(2)(b) the words "(other than such subsequent service as is mentioned in paragraph (1)(c))";
- (iv) in Regulation 61(1) and (3), the words "for not less than 365 days"; and
- (v) Regulation 61(5);

and the following consequential amendments shall be made in Regulation 19—

- (a) in paragraph (2), for the words "under a provision to which paragraph (1) does not apply" there shall be substituted the words "otherwise than under regulation 52 (as originally made) or a previous provision to the like effect"; and
- (b) in paragraph (3) for the words "Paragraphs (1) and (2)" there shall be substituted the words "Paragraph (2)".

6. In Regulation 49 of the principal Regulations (Calculation of repayment under regulations 46 to 48) there shall be inserted after paragraph (6) the following paragraph—

"(6A) Where a repayment of contributions is made to a teacher to whom a payment by way of equivalent pension benefits is or will become payable under paragraph 14 of Schedule 9, there shall be deducted from the contributions repaid a sum equivalent to one half of any payment in lieu of contributions which would have been made by the Secretary of State in respect of that teacher under section 60(1) of the National Insurance Act 1965(a) had section 58 of that Act applied".

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(a) 1965 c. 51, as continued in force by S.I. 1974/2057.

7. In Regulation 63(2) of the principal Regulations (Short term pensions), there shall be inserted after the words "reckonable service" the words "or, where on that date the teacher was absent on sick (including maternity) leave and the teacher's salary was in consequence reduced, at the annual rate at which it would have been paid but for such reduction".

8. In Schedule 9 to the principal Regulations (Modifications relating to National Insurance) there shall be inserted after paragraph 13 the following paragraph—

*"Equivalent pension benefits"*

14. Where any teacher who was employed in non-participating employment attains the age of 60 if a woman or 65 if a man, there shall be paid to that teacher by way of equivalent pension benefits (within the meaning of section 57 of the Act) a sum equal to the actuarial value of an annual allowance at the following rate for each year of reckonable service—

	<i>Man</i>	<i>Woman</i>
during the period from 3rd April 1961 to 5th January 1964	£2.31	£1.93
during the period from 6th January 1964 to 5th April 1975	£3.48	£2.90

but excluding any period of such employment in respect of which—

- (a) a payment in lieu of contributions has been made to the National Insurance Fund by the Secretary of State under section 58 of the Act, or
- (b) any allowance is payable under regulation 53:

Provided that if on attaining that age the teacher is still employed in reckonable service, such payment shall be deferred until the teacher ceases to be so employed, or to be employed in service which would constitute reckonable service had the teacher not attained the age of 70; and regulation 71 shall apply in relation to any sum paid under this paragraph."

### PART III

#### AMENDMENTS TAKING EFFECT AS FROM 1ST OCTOBER 1983

9. In Part 2 of Schedule 1 to the principal Regulations (Service reckonable at option of teacher, etc.), in paragraph 22—

(1) the words "of a person" in the first place where they occur shall be omitted;

(2) at the end of sub-paragraph (b) there shall be inserted the following proviso—

"Provided that no further election shall be required from a person so employed by the Business & Technician Education Council who so elected

while so employed by the Technician Education Council or the Business Education Council.”;

(3) in Part 2 of the list there shall be substituted for the entries relating to The Technician Education Council and The Business Education Council the entry “The Business & Technician Education Council (1st October 1983)”;

(4) at the end of Part 2 of the list there shall be added—

“The North of England Institute for Christian Education (1st January 1986)  
The Field Studies Council (1st January 1986)”.

#### PART IV

##### AMENDMENTS TAKING EFFECT AS FROM 1ST APRIL 1984

**10.** In Regulation 15(1) of the principal Regulations (Payment of teachers' contributions) there shall be inserted at the end of sub-paragraph (b)—

“and

(c) any sums payable by the teacher by way of deduction from his salary pursuant to regulation 19B;”

and there shall be inserted after the words “any contributions” the words “or sums”.

**11.** After Regulation 19 of the principal Regulations (Return of repaid contributions) there shall be inserted the following regulations—

*“Methods of return of contributions under regulation 19(2)”*

**19A.** The return of contributions to the Secretary of State under regulation 19(2) with interest as therein provided shall be by a single payment of the sum due unless the amount of that payment would exceed £500 when the teacher may elect to make the payment—

(a) if he is employed in full-time reckonable service, by instalments to be deducted from his salary in accordance with regulation 19B; or

(b) if he is employed in reckonable service other than full-time, (hereinafter referred to as “part-time reckonable service”) or in comparable British service, by instalments payable in accordance with regulation 20.

*Return of contributions by deduction from salary*

**19B.**— (1) Where a teacher has elected, pursuant to regulation 19A(a), to return contributions by instalments to be deducted from his salary, the amount of each deduction shall be equal and shall be of such amount as will enable the said sum, together with the interest payable under paragraph (2), to be paid in full over a period of five years or, where that period would expire after the teacher has attained the age of 60, any lesser period of whole years, selected by the teacher, that will expire on or after the day on which the teacher attains that age:

Provided that where the aggregate amount of such deductions in any one year would, when aggregated with other deductions from the teacher's salary under regulation 15(1), exceed 15 per cent. of the teacher's salary for that year, the period of payment shall be extended to such minimum number of whole years as will cause the amount of such deductions, when so aggregated, not to exceed 15 per cent. of the teacher's annual salary.

(2) Where a teacher elects to return any contributions by deduction from his salary in accordance with the provisions of this regulation, or has elected to return contributions by the payment of instalments under regulation 20 as originally made, he shall pay, in lieu of the interest provided for in regulation 19(2), compound interest on the balance of the contributions being returned for the time being outstanding calculated at  $3\frac{1}{2}$  per cent. per annum, with yearly rests from 31st March, from the date of the repayment of the contributions to the teacher until the whole amount thereof shall have been returned to the Secretary of State with interest thereon as herein provided.

(3) If a teacher who has commenced to pay instalments in accordance with this regulation or under regulation 20 as originally made becomes entitled to the award of allowances, or a death gratuity becomes payable in respect of him, before he has completed payment—

- (a) any allowances payable in respect of him shall be calculated on the basis that he has completed payment, and
- (b) the amount outstanding, adjusted to take account of the premature payment, shall be deducted from the additional allowance or gratuity payment in respect of him.

(4) If, in a case not falling within paragraph (3), a teacher who has commenced to pay instalments in accordance with this regulation ceases to be employed in full-time reckonable service before he has completed payment, but continues in part-time reckonable service or in comparable British service, he shall (subject as hereinafter provided) pay the amount then outstanding to the Secretary of State—

- (a) in a single payment, adjusted to take account of the premature payment; or
- (b) if he so elects, by instalments in accordance with regulation 20.

(5) If, in a case not falling within paragraph (3) or (4), a teacher who has commenced to pay instalments in accordance with this regulation ceases to be employed in reckonable service or in comparable British service before he has completed payment, he shall (subject as hereinafter provided) pay the amount then outstanding to the Secretary of State—

- (a) in a single payment, adjusted to take account of the premature payment; or
- (b) if he elects to pay contributions to purchase current added years pursuant to regulation 30, by instalments (if he so elects) paid at the same time as those contributions but otherwise in accordance with regulation 20; and the teacher shall in that event be treated for the purposes of paragraph (6) as not ceasing to be employed in reckonable service until he makes an election pursuant to regulation 30 or the period allowed for such an election by regulation 30(6) has expired, whichever shall happen first.

(6) If within three months of ceasing to be employed in full-time reckonable service a teacher has not paid the amount outstanding to the Secretary of State or elected (where he has the right to do so) to pay that amount by instalments in accordance with paragraph (4)(b) or (5)(b) of this regulation, the payments already made by the teacher pursuant to regulation 19(2), including any interest included in those payments, shall be repaid to the teacher.

(7) Where a teacher employed in full-time reckonable service has, before 1st April 1984, elected to return contributions pursuant to regulation 19(2) by instalments pursuant to regulation 20 as originally made, he shall pay any outstanding balance by way of deductions from his salary under this regulation, which shall in such a case apply with such modifications as may be necessary:

Provided that the period of payment shall not, in such a case, expire earlier than—

- (a) five years from the date on which the first payment by deduction is made, or
- (b) the date on which the teacher attains the age of 60, if sooner.”.

**12.—** (1) The heading to Regulation 20 of the principal Regulations shall be amended to read “*Return of contributions by payment of instalments*”.

(2) There shall be substituted for paragraphs (1) and (2) of Regulation 20 the following paragraph—

“(1) Payments under this regulation shall be made in uniform instalments of such amount as may be determined by the Secretary of State (subject to paragraph (3)) after consultation with the teacher and at such intervals (not exceeding six months) as may, after such consultation, be so determined; and shall continue to be paid until the whole amount of the contributions repaid to the teacher has been returned to the Secretary of State, together with the interest payable by virtue of paragraph (4).”.

(3) There shall be substituted for paragraph (4) of Regulation 20 the following paragraph—

“(4) Where a teacher elects to return any contributions repaid to him in accordance with the provisions of this regulation, he shall pay, in lieu of the interest provided for in regulation 19(2), compound interest on the balance of the contributions being returned for the time being outstanding calculated at  $3\frac{1}{2}$  per cent. per annum, with yearly rests from 31st March, from the date of the repayment of those contributions to the teacher until the whole amount thereof shall have been returned to the Secretary of State with interest thereon as herein provided.”.

(4) For paragraph (6) of Regulation 20 there shall be substituted the following paragraphs—

“(6) If, in a case not falling within paragraph (5), a teacher who has commenced to pay instalments in accordance with this regulation ceases to be employed in reckonable service or in comparable British service before he has completed payment, he shall (subject as hereinafter provided) pay the amount then outstanding to the Secretary of State—

- (a) in a single payment, adjusted to take account of the premature payment; or
- (b) if he elects to pay contributions to purchase current added years pursuant to regulation 30, by instalments (if he so elects) paid at the same time as those contributions but otherwise in accordance with this regulation; and the teacher shall in that event be treated for the purposes of paragraph (7) as not ceasing to be employed in reckonable service or comparable British service until he makes an election pursuant to regulation 30 or the period allowed for such an election by regulation 30(6) has expired, whichever shall happen first.

(7) If within three months of ceasing to be employed in part-time reckonable service or comparable British service (as the case may be) the teacher has not paid the amount outstanding or elected (where he has the right to do so) to pay the amount by instalments in accordance with paragraph (6)(b) of this regulation, the payments already made by the teacher pursuant to regulation 19(2), including any interest included in those payments, shall be repaid to the teacher.

(8) If in any case where the teacher has elected to pay an amount outstanding by instalments under this regulation any such instalment is not paid by 21st April in the financial year beginning next after the financial year in which it fell due, the payments already made by the teacher pursuant to regulation 19(2), including any interest included in those payments, shall be repaid to the teacher.”.

**13.** In Regulation 72(1A) of the principal Regulations (Counting reckonable service for benefit) there shall be added at the end of sub-paragraph (c) the words “and not repaid to the teacher under regulation 19B or 20.”.

**14.** In the form of account in Part 1 of Schedule 8 to the principal Regulations, in Head II in column A there shall be inserted after the word “contributions” the words “and payments”; and Head IV in that column shall be omitted.

## PART V

### AMENDMENT TAKING EFFECT AS FROM 11TH MAY 1984

**15.—** (1) In Regulation 94 of the principal Regulations (Payments in respect of deceased persons) there shall be substituted for the sum “£1,500” the sum “£5,000”.

(2) This Regulation shall have effect in relation to deaths occurring on or after 11th May 1984.

## PART VI

## AMENDMENT TAKING EFFECT AS FROM 1ST AUGUST 1984

16. In Regulation 3(1) of the principal Regulations, in the definition of "child", there shall be inserted after the words "profession or calling" a semicolon and the words "and a person who has continued receiving full-time education after having attained the age of 17 shall be regarded as receiving such education up to (but not including) the first Monday in January, the first Monday after Easter Monday or the first Monday in September next following the end of the term in which in fact he last receives full-time education".

## PART VII

## AMENDMENTS TAKING EFFECT AS FROM 8TH NOVEMBER 1985

17. In Regulation 4 of the principal Regulations (Reckonable service)—

(1) there shall be inserted after sub-paragraph (2)(c) the following sub-paragraph—

“(cc) in employment which is in continuation of employment of the kind described in sub-paragraph (c); or”;

(2) in paragraph (3) there shall be substituted for the reference to sub-paragraph “(c) or (d)” a reference to sub-paragraph “(c), (cc) or (d)”.

## PART VIII

## AMENDMENTS TAKING EFFECT AS FROM 1ST JANUARY 1986

18. In Regulation 24 of the principal Regulations (Purchase of past added years—current provisions)—

(1) in paragraph (1) the word “who” shall be inserted after the word “teacher” and deleted after the words “paragraph (8),” in sub-paragraph (a);

(2) in paragraph (4), the words from “, in the case of a further election to pay contributions by method B or C” to “of any election,” shall be deleted; and in paragraph (4)(a)(iii) there shall be substituted for the words “Schedule 2” the words “Schedule 2A”;

(3) after paragraph (4) there shall be inserted the following paragraph—

“(4A) Any notice under paragraph (4) in respect of a further election to pay contributions by method B or C shall (unless it is in respect of a further election to pay contributions by method B in relation to part-time reckonable service) be given within six months of the teacher last having become employed in reckonable service.”.

19. In Regulation 46 of the principal Regulations (Repayment of contributions on cessation of employment)—



(1) in paragraph (1), there shall be substituted for the words preceding sub-paragraph (a) the following words—

“A teacher who has ceased or ceases to be employed in reckonable service shall, if the following conditions are satisfied, be entitled, on the expiry of the period specified in sub-paragraph (d) or on attaining the age of 70, if earlier, to be repaid the balance of his contributions, calculated in accordance with regulation 49 as at the date of repayment or as at the date on which he attained the age of 70, if earlier, reduced by a sum equal to the tax chargeable on that repayment pursuant to paragraph 2 of Part II of Schedule 5 to the Finance Act 1970(a) (charge to tax on repayment of employee’s contributions)—”; and

(2) Paragraph (4) is hereby revoked.

**20.** Regulation 47 of the principal Regulations (Repayment at 70), is hereby revoked.

**21.** In Regulation 49(1) of the principal Regulations (Calculation of repayment) and in the heading to Regulation 49 for the words “46 to 48” there shall be substituted the words “46 and 48”.

**22.** In Regulation 50 of the principal Regulations (Repayment of member’s contributions)—

(1) sub-paragraph (b) of paragraph (1) shall be deleted; and

(2) at the end of paragraph (2) there shall be added the words “or the date on which he attained the age of 70, if earlier”.

**23.** In Regulation 52 of the principal Regulations (Limited repayments to pensioners), paragraph (2) is hereby revoked.

**24.** After Regulation 52 of the principal Regulations there shall be inserted the following Regulation—

*“No payment except on application*

**52A.** The Secretary of State shall not make any payment in respect of any entitlement under this Section until he has received written application therefor, supported by such particulars as he may require.”.

**25.** In Regulation 54 of the principal Regulations (Amount of annual allowance), paragraph (2A) is hereby revoked and there shall be added after paragraph (7) the following paragraph—

“(8) Where, pursuant to section 42 of the Social Security Pensions Act 1975(b), a contributions equivalent premium has been paid in respect of a teacher and not refunded (thereby extinguishing his entitlement to a guaranteed minimum pension) the annual allowance payable to the teacher shall be reduced by an amount equal to the guaranteed minimum pension which would have been payable to him had that contributions equivalent premium not been paid.”.

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(a) 1970 c. 24; paragraph 2 was substituted by the Finance Act 1971, Schedule 3, para. 7.

(b) 1975 c. 60.

26. In Regulation 56 of the principal Regulations (Amount of additional allowance), paragraph (3A) is hereby revoked.

27. In Regulation 61 of the principal Regulations (Benefits after re-employment)—

(a) there shall be inserted in paragraph (3), after the words “there shall”, the words “; subject to paragraph (4)(a),”; and

(b) there shall be substituted for sub-paragraph (4)(a) the following sub-paragraph—

“(a) Where the further service of a teacher is discontinued before he attains the age of 60 otherwise than by reason of his incapacity, his redundancy or termination of his service in the interests of the efficient discharge of his employer’s functions, the allowances payable by virtue of paragraph (3) shall not be paid until he attains the age of 60.”.

28. In Regulation 72 of the principal Regulations (Counting reckonable service for benefits)—

(1) in paragraph (1A)(c) the words “where regulation 46(4) applies” shall be deleted; and

(2) in paragraph (1B), the words “or 47(2)” shall be deleted.

29. There shall be inserted after Regulation 73 of the principal Regulations the following new Regulation—

*“Employment at reduced salary*

73A.— (1) This regulation shall apply whenever, after 1st January 1986, a teacher suffers a reduction in the rate of his salary while remaining in the employment of the same employer and that employer certifies, by written notice to the Secretary of State given within thirteen weeks of the relevant date, that the continued employment of the teacher at such lower rate of salary is in the interests of the efficient discharge of the employer’s functions, but shall not apply—

(a) if the period between the last day of service at the previous rate of salary and the relevant date exceeds six months;

(b) in relation to a teacher who elects under regulation 14(2) to pay contributions after the relevant date by reference to his previous salary; or

(c) unless the result of its application will be an increase in the benefits otherwise payable under these regulations to or in respect of the teacher on his retirement or death, after taking account of any increase payable by virtue of any Pensions Increase (Review) Order.

(2) Where employment before and after the relevant date is by employers who, were it not for paragraph (10)(d) of this regulation, would be regarded as different employers, the notice required by paragraph (1) shall be given by the employer by whom the teacher was employed before the relevant date.

(3) Whenever this regulation applies the teacher shall, for the purposes of these regulations (but subject to paragraph (7)), be treated as having served two or more separate periods of reckonable service, each qualifying for

separate benefits under these regulations, the first period terminating on the last day of reckonable service before the reduction in salary takes effect and the second or subsequent period commencing on the relevant date and terminating on cessation of reckonable service or, where such service continues at a further reduced rate of salary, on the last day of such service before that further reduction takes effect.

(4) So long as the teacher's periods of reckonable service, when aggregated, are not less than any minimum period of reckonable service required by regulation 53 or any other provisions of these regulations in order to qualify for benefit, nothing in regulation 53 (Entitlement to allowances) or any such other provision shall have effect so as to prevent the payment of benefit in respect of each such period of reckonable service; nor shall regulation 67(3) (which limits the number of pensions payable in respect of the children of any teacher) have effect so as to prevent the payment of benefit in respect of each such period.

(5) Regulations 54(2) and 56(2) (which limit the amount of reckonable service which may be taken into account for the purpose of calculating annual and additional allowances) shall have effect in relation to the aggregate amount of a teacher's reckonable service; and any period required by those provisions to be left out of account shall be deducted from the teacher's last period or periods of reckonable service.

(6) For the purpose of calculating average salary pursuant to regulation 9, "terminal service" shall be taken to mean the last three years of any period of reckonable service which qualifies as a separate period for the purpose of this regulation (ending on the last day of that period) or, where the separate period is less than three years, that period.

(7) Where an annual allowance or an additional allowance becomes payable to a teacher after the relevant date by virtue of regulation 53(1)(c) (on incapacity before attaining the age of 60), the amount of any annual allowance payable to him by virtue of regulation 54(1) and (3), and of any additional allowance payable to him by virtue of regulation 56(1) and (4), shall be calculated as follows—

- (a) the provisions of regulations 54(3) and 56(4) (which extend the period of his reckonable service) shall be applied to the total period of his reckonable service both before and after the relevant date;
- (b) the period by which his reckonable service is to be extended as a result of that calculation shall be added—
  - (i) where the allowance becomes payable within three years from the relevant date, to his period of reckonable service which terminated on his last day of reckonable service before the relevant date; and
  - (ii) where the allowance becomes payable thereafter, to his period of reckonable service commencing on the relevant date;
- (c)  $1/80$ th of his average salary, calculated separately in relation to his period of reckonable service before the relevant date and his period of reckonable service commencing on that date (taking account of any increase in either of those periods by virtue of sub-paragraph (b) above) shall be multiplied by the number of years of his reckonable service in each period (as so increased);

and the references in sub-paragraph (3)(f) of regulation 66 (Amount of pension for widow or adult beneficiary) to "any period which (disregarding any past added years which he elected to purchase) was or could have been

added to his reckonable service by virtue of regulation 54” and in paragraph (4) of regulation 67 (Amount of child’s pension) to “such number of years (disregarding any past added years which he elected to purchase) as could have been added to his reckonable service by virtue of regulation 54(3)” shall be construed accordingly.

(8)(a) Any additional period of reckonable service acquired by the purchase of past added years pursuant to regulation 24 or any previous provision to the like effect shall, subject to paragraph (b), be deemed to have been added to the period of reckonable service before the relevant date (whether or not the teacher has, at the relevant date, completed the payment of all additional contributions payable under that regulation) unless the additional period of reckonable service was so acquired—

(i) by virtue of a first or further election (as defined in regulation 24(3)) to pay contributions by method A, B or C made on or after the relevant date, or

(ii) by virtue of a further election to pay contributions by method D where the previous election was to pay contributions by method A, reserving the right to make a further election, but that previous election was made on or after the relevant date.

(b) On the relevant date any election to pay contributions by method A or C made after the commencement of the period of twelve months ending on the last day of service at the previous salary shall cease to have effect and any contributions paid pursuant thereto shall thereupon be refunded to the teacher.

(c) Where a first or further election (as defined in regulation 24(3)) to pay contributions by method B is made on or after the relevant date, paragraph 3 of Part II of Schedule 2A (which provides for the calculation of the lump sum contribution in certain cases where a teacher’s salary has been reduced) shall not apply.

(9) Where a death gratuity under regulation 58 or a supplementary death gratuity under regulation 60 is payable in respect of a teacher, it shall be calculated—

(a) by taking as his average salary for the purposes of regulations 58(1)(a) and 60(1)—

(i) where the gratuity becomes payable within three years from the relevant date, the amount of his average salary for the period up to the relevant date, and

(ii) where the gratuity becomes payable thereafter, the amount of his average salary for the period since the relevant date;

(b) by taking as the additional allowance referred to in paragraphs (1)(b) and (2) of regulation 58 the aggregate amount of the additional allowances which would have been payable to him under regulation 56 (if he had become incapacitated on the date of his death or had otherwise become entitled to an allowance in accordance with that regulation) in respect of his periods of reckonable service up to the relevant date and commencing on that date, any enhancement being calculated pursuant to paragraph (7) of this regulation;

(c) by taking as the annual allowance referred to in regulation 60(2) the aggregate amount of the annual allowances paid to him under regulation 54.

(10) For the purposes of this regulation—

- (a) a “Pensions Increase (Review) Order” means such an Order made under Part I of the Pensions (Increase) Act 1971(a);
- (b) the “relevant date” means the first day of reckonable service at a reduced rate of salary;
- (c) where a teacher is employed part-time, the rate of his salary shall be deemed to be that which he would receive if he were employed full-time in the same post;
- (d) a local education authority and the governors of the schools maintained by that authority shall be deemed to be the same employer.”.

**30.** In Regulation 74 of the principal Regulations (Allocation of annual allowance)—

- (a) in paragraph (1)(b) for the words “to him and his wife for their joint lives” there shall be substituted the words “payable to him for the joint lives of himself and his wife”; and
- (b) there shall be inserted after paragraph (7) the following paragraph—

“(8)(a) Where a teacher, having given notice to the Secretary of State of his intention to retire within four months of service of the notice, delivers a declaration under this regulation to the Secretary of State on or after 1st January 1986 and thereafter the annual allowance to which the declaration refers is increased otherwise than in pursuance of any Pensions Increase (Review) Order (whether or not the increase takes effect from a date earlier than the date of delivery of the declaration), the amount allocated by the declaration shall be increased by the same proportion as the increase in the annual allowance bears to the former amount of the allowance, the result being rounded down to the nearest pound; and the amount of the allowance payable to the teacher shall be reduced by the amount of the increased allocation and, in the case falling within paragraph (1)(b), the rate of annuity there mentioned shall be increased to take account of the increase in the amount allocated as from the date on which the increase in the allowance takes effect; and on the subsequent death of the teacher the amount of the pension payable in accordance with his declaration shall similarly be increased.
- (b) In this paragraph a Pensions Increase (Review) Order means such an order made under Part I of the Pensions (Increase) Act 1971.”.

**31.** In Part II of Schedule 2A to the principal Regulations (Purchase of Past Added Years—Current Provisions—Method B), there shall be inserted at the beginning of paragraph 3(1) the words “Subject to regulation 73A(8)(c).”.

**32.** In Schedule 6 to the principal Regulations (Allocation Declarations), in paragraph 6, in sub-paragraph (1) the words “Subject to paragraph (2),” and sub-paragraph (2) shall be deleted.

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(a) 1971 c. 56, as amended by section 59 of the Social Security Pensions Act 1975 (c. 60).

25th November 1985.

*Keith Joseph,*  
Secretary of State for Education  
and Science.

We consent.

27th November 1985.

*T. Garel-Jones,*  
*Donald Thompson,*  
Two of the Lords Commissioners  
of Her Majesty's Treasury.

## EXPLANATORY NOTE

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

These Regulations amend the Teachers' Superannation Regulations 1976. In so far as they do so with retrospective effect, this is authorised by section 12(1) of the Superannation Act 1972. In addition to certain corrections and clarification, the following changes are made.

*With effect from 1st January 1977*

Regulations 9(6) and 63(2) of the 1976 Regulations are amended to require the "average salary" of a teacher for superannation purposes and the rate of a short term pension to be based on full salary without any deduction to reflect a reduction in that salary during sick or maternity leave (*Regulations 4 and 7*).

The restriction in Regulation 61(1) and (3) of the 1976 Regulations on the payment of increased allowances to a teacher to whom allowances have become payable where that teacher is again employed in reckonable service to the case where that further employment is for a period of not less than 365 days is removed in relation to periods of further service which were subsisting on 6th April 1978 or began on or after that date. Regulation 61(5), under which a teacher could defer the payment to him of an increased allowance under Regulation 61, ceases to have effect in relation to such periods of further service; as does Regulation 19(1) and (4), prescribing the circumstances in which a teacher to whom contributions have been repaid may, on subsequent employment in reckonable service, return them to the Secretary of State, with consequential amendments in Regulation 19(2) and (3); and Regulation 52(1), which provides for the repayment to the teacher of contributions paid by him during the period of further service where it is not long enough to qualify for an increased allowance, with a consequential amendment in Regulation 52(2)(b) (*Regulation 5*).

Provision is made for the payment at age 60 (women) and 65 (men) or on subsequent retirement of "equivalent pension benefits" to teachers who were employed in non-participating employment (within the meaning of section 56(1) of the National Insurance Act 1965 (c. 51)) for any period between 3rd April 1961 and 5th April 1975 in respect of which no allowance is payable under Regulation 53 and no payment in lieu of contributions has been made to the National Insurance Fund; and for a deduction to be made from any repayment of contributions made to a teacher entitled to such benefits (*Regulations 8 and 6*).

*With effect from 1st October 1983*

The Business & Technician Education Council (replacing the Technician Education Council and the Business Education Council), the North of England Institute for Christian Education and the Field Studies Council are added to Part 2 of the list of bodies in paragraph 22 of Schedule 1 to the 1976 Regulations whose organisers are deemed, by virtue of Regulation 4(2)(a) of those Regulations, to be employed in reckonable service if they so elect within 3 months of becoming so employed or of the date specified in relation to the body in question. Elections made by former employees of the Technician Education Council and the Business Education Council are preserved (*Regulation 9*).

*With effect from 1st April 1984*

In certain circumstances a teacher to whom contributions were repaid before June 1973 may, on further employment in reckonable service, return those contributions, with interest, to the Secretary of State—Regulation 19(2) of the 1976 Regulations. Provision is made for such contributions to be returned by instalments deducted from salary (rather than in a lump sum) where the amount exceeds £500 and the teacher is employed in full-time reckonable service. Teachers employed in part-time reckonable service or “comparable British service” (as defined in Regulation 3(1) of the 1976 Regulations) may make such payments by instalments, but not by deduction from salary. Fresh provision is made for the case where the teacher paying such instalments ceases to be employed in full-time reckonable service. Consequential amendments are made in Regulations 15(1) and 72(1A) and in the form of account in Part 1 of Schedule 8 to the 1976 Regulations (*Regulations 10-14*).

*With effect from 11th May 1984*

Regulation 94 of the 1976 Regulations permits payment to be made, without probate or other proof of title, of any sum due under those Regulations not exceeding £1,500. This figure is increased to £5,000 in relation to deaths occurring on or after 11th May 1984 (*Regulation 15*). Comparable provision has been made in the Administration of Estates (Small Payments) (Increase of Limit) Order 1984 (S.I. 1984/539).

*With effect from 1st August 1984*

The definition of “child” in Regulation 3(1) of the 1976 Regulations is amended to extend until the first Monday in January, after Easter Monday or in September next following the day on which his full-time education ceases the period during which a person who has attained the age of 17 is to be regarded as a child for the purposes of the 1976 Regulations (*Regulation 16*).

*With effect from 8th November 1985*

Regulation 4 of the 1976 Regulations is amended by adding to the periods during which a teacher is employed in reckonable service for the purposes of those Regulations any time when he is in employment which is in continuation of employment of the kind described in Regulation 4(2)(c)—i.e. employment which is itself in continuation of employment which was treated as reckonable service for the purposes of the Teachers’ Superannuation Regulations 1967 (S.I. 1967/489) (*Regulation 17*).

*With effect from 1st January 1986*

Regulation 24 of the 1976 Regulations is amended to remove the restriction under which an election to buy “added years” must be made within six months of the teacher last having become employed in reckonable service in the case where it is a further election to pay contributions by method B in relation to part-time reckonable service (*Regulation 18*).

Regulations 46 and 47 of the 1976 Regulations provide for the repayment of contributions, with interest, to teachers who leave teaching below the age of 60 without having qualified for retirement benefits under the Regulations, subject to certain conditions, some of which cease to apply when the teacher attains 70.



No such repayment could be made while the teacher was under 60 unless he applied for it; thereafter repayment could be made whether he applied for it or not. These Regulations are amended and a new Regulation 52A is added so as to prohibit repayment in any case except on the application of the teacher, thereby enabling him to preserve his right to benefits under the Regulations should he qualify for them e.g. by further service (*Regulations 19, 20 and 24*). Consequential amendments are made by Regulations 21, 22 and 28. Regulations 52(2), 54(2A) and 56(3A) of the 1976 Regulations, under which certain service was precluded from aggregation, thus giving rise to a repayment of contributions, are revoked, so that benefit will now be payable in such cases, and a consequential amendment has been made in Regulation 54 (*Regulations 23, 25 and 26*).

Regulation 61(3) of the 1976 Regulations provides for the recalculation of an incapacity allowance following a period of further employment in reckonable service. The restriction in Regulation 61(4)(a) under which this applies, in the case of a teacher whose further employment ceases before he attains the age of 60, only where that employment ceased because of his incapacity, is removed; but it is provided that the recalculated allowance shall be paid in such a case only when the teacher attains the age of 60, unless the cessation of his further employment before that age was due to his incapacity or redundancy or was in the interests of the efficient discharge of his employer's functions (*Regulation 27*).

Provision is made for the case where a teacher, in the interests of the education service, accepts a position with the same employer at a lower rate of salary. In such a case the allowances payable to the teacher under the 1976 Regulations will be calculated on a two-fold basis. One part will be calculated on the assumption that he had retired on the date on which he ceased to be employed at the higher salary. Although this part will not be payable until he does retire (or dies in service), it will attract increases payable by virtue of Orders under the Pensions (Increase) Act 1971 during the intervening period. The second part will be based on his reckonable service from the first day of employment at the reduced rate of salary (the "relevant date"). Special provision is made for the case where enhanced benefits are payable on the teacher's premature retirement through incapacity, or where he dies in service (*Regulations 29 and 31*).

Regulation 74 of the 1976 Regulations, which enables a teacher to allocate a portion of the annual allowance payable on his retirement to provide benefits for his widow or other dependant, is amended to make it clear that an annuity under this provision is payable to the husband during the joint lives of himself and his wife. Provision is made for the amount of the allocation to be automatically increased in line with any increase (except an increase under the Pensions (Increase) Act 1971) in the amount of the allowance, with a corresponding increase in the amount of the benefits payable. The provision in paragraph 6(2) of Schedule 6 to the 1976 Regulations under which this depended on action being taken by the teacher is deleted (*Regulations 30 and 32*).

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