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STATUTORY INSTRUMENTS

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**1988 No. 1618**

**The Teachers' Superannuation (Scotland)  
Amendment Regulations 1988**

**PART III**

**Definitions**

**20.**—(1) In regulation 3(1) of the principal Regulations—

(a) after the definition of “agreed” there shall be inserted the following definition:—

““appropriate policy” means a policy of insurance or annuity contract which provides an annuity which satisfies requirements prescribed under paragraph 13(2) (b) of Schedule 1A to the Pensions Act.”;

(b) after the definition of “pensionable salary” there shall be inserted the following definition:—

““Pensions Act” means the Social Security Pensions Act 1975”;

(c) after the definition of “state pension age” there shall be inserted the following definition;—

““superannuation scheme” means an occupational pension scheme within the meaning of section 66(1) of the Pensions Act;”.

(2) In regulation 3(2) of the principal Regulations there shall be substituted, for the words “regulation 86”, the words “regulation 72, 82 and 86”.

**Repayment of contributions on cessation of employment**

**21.** In regulation 39(1) of the principal Regulations 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 (c) or on attaining the age of 70, if earlier, to be repaid the balance of his contributions, calculated in accordance with regulation 42 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 section 598 of the Income and Corporation Taxes Act 1988(1) (charge to tax on repayment of employee’s contributions):—”.

**Return of contributions at 70**

**22.** Regulation 40 of the principal Regulations is hereby revoked.

**Return of members' contributions**

**23.** In regulation 43 of the principal Regulations—

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

#### **Entitlement to retiring allowances**

24. In regulation 46(1)(dd) of the principal Regulations there shall be deleted the words “or 40(2)(a)(ii)”

#### **Reckonable service for entitlement and for benefit**

25. In regulation 49(2) of the principal Regulations—
- (a) in sub-paragraph (c)(iii), the words “or 40(2)” shall be deleted;
  - (b) sub-paragraph (d)(iii) is hereby revoked.

#### **Enhancement of reckonable service**

26. In regulation 51 of the principal Regulations—
- (a) for paragraph (1) there shall be substituted—

“(1) If while he is employed in reckonable service a teacher becomes incapacitated, his reckonable service shall, for the purposes of calculating the retiring allowance under regulation 47, be treated as being—

    - (a) if he has completed less than 10 years reckonable service, twice the number of years of such service or the number of years he would have completed in such service if he had remained in it until he attained the age of 65, whichever is the lesser;
    - (b) if he has completed 10 years or more than 10 years reckonable service, whichever is the greater of—
      - (i) the number of years not exceeding 40 which he would have completed in such service if he had been employed for an additional 6 years and 243 days or if he had remained in such service until he attained the age of 60, whichever is the lesser; or
      - (ii) the number of years not exceeding 20 which he would have completed if he had remained in reckonable service until he attained the age of 65.”; and
  - (b) in paragraph (2), for the words “The table below applies”, there shall be substituted the words “Paragraph (1) shall apply” and the table is revoked.

#### **Superannuation schemes**

27. In regulation 71 of the principal Regulations—
- (a) in paragraph (1), for the words ““superannuation scheme””, there shall be substituted the words ““statutory scheme””;
  - (b) in paragraph (1)(a)(iv) the words “(“a statutory scheme”)” shall be deleted;
  - (c) at the end of paragraph (1)(a)(v) a full-stop shall replace “; or”; and
  - (d) paragraph (1)(b) shall be revoked.

#### **Payment of transfer values**

28. For regulation 72 of the principal Regulations there shall be substituted the following:—

“72.—(1) Subject to paragraphs (3) and (4), where a teacher has ceased to be employed in reckonable service (hereafter referred to as his “old employment”), then if—

- (a) his old employment terminated before he attained the age of 60 years, or where paragraph (2) applies the age of 59 years;
- (b) he is a person—
  - (i) who has completed 2 or more years' reckonable service, or
  - (ii) who after leaving his old employment has taken up employment in which he participates in a superannuation scheme and he has, within 6 months after taking up that new employment, made an application such as is mentioned in sub-paragraph (d) for payment of a transfer value;
- (c) no benefit under these Regulations has been paid to him in relation to his old employment other than—
  - (i) a benefit consisting of a return of contributions in respect of part only of his reckonable service in his old employment (whether or not repaid to the Secretary of State), or
  - (ii) a benefit consisting of a return of contributions in respect of all of his reckonable service in his old employment paid to him by the Secretary of State under regulation 45(1) or under any other provision before 1st June 1973 where he has subsequently repaid to the Secretary of State an amount equal to the sum received by him;
- (d) he has, before—
  - (i) attaining the age of 60 years, or
  - (ii) where paragraph (2) applies, attaining the age of 59 years, or 6 months after the date when his old employment terminated, whichever is later,made an application in writing to the Secretary of State for payment of a transfer value and has not subsequently withdrawn it in accordance with paragraph (5) (a); and
- (e) where paragraph (2) applies, he has completed 2 or more years' service,

the Secretary of State shall, in respect of that person pay a transfer value, calculated in accordance with Part 1 of Schedule 10, to be used in accordance with paragraph 13 of Schedule 1A to the Pensions Act at the teacher's option in one or more of the ways set out in sub-paragraph (2) of that paragraph.

(2) This paragraph applies where a person opts to have payment of his transfer value, or any portion of it, made to one or more insurance companies to purchase an appropriate policy.

(3) Subject to paragraph (4) the Secretary of State shall, if an application under paragraph (1)(d) is received by him, pay a transfer value by whichever is the earlier of the following:—

- (a) the date 12 months from the date on which the application is received by him; or
- (b) the date on which the person in respect of whom the transfer value is paid attains the age of 60 where—
  - (i) he ceased to be employed in reckonable service on a date prior to his attaining the age of 59 years, and
  - (ii) he made his application for payment of a transfer value within 6 months of that date.

(4) Where proceedings before a court have been commenced against a teacher at any time before the expiry of the period of 12 months beginning with the date on which his reckonable service terminates and it appears to the Secretary of State that the proceedings may lead to any retiring allowance or gratuity payable under these Regulations to or in respect of the teacher being reduced or withheld under regulation 87, the date by which the Secretary of State shall pay a transfer value shall be—

- (a) the date before which he would be required to do so under paragraph (3), or
- (b) the end of the period of three months after the conclusion of the court proceedings (including any proceedings on appeal),

whichever is the later.

- (a) (5) An application for payment of a transfer value may be withdrawn by a person by giving notice in writing to the Secretary of State, but such a notice will be of no effect if prior to the date of receiving it the Secretary of State has entered into an agreement with a third party to use the whole or any part of the person's transfer value in one of the ways set out in paragraph 13 of Schedule 1A to the Pensions Act;
- (b) a person who withdraws an application may make another."

### **Receipt of transfer values**

**29.** For regulation 73 of the principal Regulations there shall be substituted the following:—

**“73.—(1)** Where a teacher who enters reckonable service has, in consequence of service in previous employment, accrued rights to benefit under a superannuation scheme (whether or not his rights are preserved in that scheme or have been transferred to and are held under one or more such schemes or are appropriately secured for the purposes of section 52C of the Pensions Act by one or more appropriate policies), the teacher may, within 12 months of entering reckonable service, give written notice to the Secretary of State that he wishes the Secretary of State to accept a payment in respect of those accrued rights, or any part of them, from—

- (a) the trustees or managers of the superannuation scheme in which his accrued rights are preserved (in this regulation referred to as “the previous scheme”), or
- (b) the trustees or managers of the superannuation scheme, or the insurance company, to which a payment in respect of his accrued rights or any part thereof has been made.

(2) Subject to paragraph (3), where notice is given and payment is made to the Secretary of State in accordance with paragraph (1)—

- (a) an additional period of reckonable service will be credited to the teacher in respect of the payment calculated in accordance with Part 2 of Schedule 10, and
- (b) the period of service in respect of which the payment is made, as certified by the trustees or managers of the previous scheme, shall be taken into account in determining whether any benefit is payable to or in respect of the teacher under these Regulations.

(3) The Secretary of State shall not be required to accept a payment in accordance with paragraph (1) if it does not exceed the annual amount of the guaranteed minimum pension for which the Secretary of State would have been liable as a result of accepting it multiplied by the factor appropriate to that person, as set out in column 2 of the following table opposite his age, as at the date when the Secretary of State is requested to accept the payment, as set out in column 1—

<i>Age</i>	<i>Appropriate Factor</i>
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12.”.

### **Modifications relating to teachers in comparable British service**

**30.** For regulation 74 of the principal Regulations there shall be substituted the following:—

“**74.**—(1) In its application to teachers in comparable British service regulation 72 shall have effect with the substitution for paragraph (1)(b)(ii) of the following:—

“(ii) who after leaving his old employment has taken up employment in comparable British service and has made an application such as is mentioned in subparagraph (d) for payment of a transfer value;”.

(2) In its application to teachers formerly in comparable British service regulation 73 shall have effect with the deletion in paragraph (1) of the words “, within 12 months of entering reckonable service,”.”.

### **Schedule 10 (Transfer values)**

**31.** For Schedule 10 and Appendices thereto to the principal Regulations there shall be substituted the Schedule set out in Schedule 2 to these Regulations.

### **Application of Regulations**

**32.**—(1) Regulations 28 and 31 of these Regulations shall not have effect—

(a) in relation to any person who has completed 5 or more years service as a teacher and whose employment in reckonable service terminated before 1 January 1986 (or who ceased to be subject to the principal Regulations before that date), so as to allow him to exercise an option under regulation 72 of the principal Regulations which would not have been available to him had these Regulations not been made; or

(b) in relation—

(i) to payments of transfer values made by the Secretary of State to statutory schemes, or schemes which fall to be treated by him as statutory schemes for the purposes of Schedule 10 to the principal Regulations, where an application was received by him before 6th April 1988; or

(ii) to payments of transfer values made by such schemes to the Secretary of State before that date.

(2) Where the whole, or any part of, a transfer value paid in respect of a teacher—

(a) falls to be calculated by reference to service rendered by him before the coming into force of these Regulations; and

(b) is to be used by the Secretary of State, at that person’s option, to acquire transfer credits in an occupational pension scheme which is not a statutory scheme; and

the amendments made to the principal Regulations by regulations 28 and 31 of these Regulations would result in the amount or value of those transfer credits being reduced, that transfer value, or that part of it, shall be calculated as if regulations 28 and 31 of these Regulations had not been made.

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

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