

**1989 No. 666 (S.72)**

**EDUCATION, SCOTLAND**

**The Teachers' Superannuation (Scotland) Amendment  
Regulations 1989**

<i>Made</i> - - - -	<i>11th April 1989</i>
<i>Laid before Parliament</i>	<i>28th April 1989</i>
<i>Coming into force</i>	<i>1st June 1989</i>

The Secretary of State, in exercise of the powers conferred on him by sections 9 and 12 of the Superannuation Act 1972(a) and of all other powers enabling him in that behalf, after consulting with representatives of local education authorities and of teachers and with such representatives of other persons likely to be affected by these Regulations as appear to him to be appropriate, in accordance with section 9(5) of that Act, and with the consent of the Treasury(b), hereby makes the following Regulations:

**Citation and commencement**

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Scotland) Amendment Regulations 1989 and may be cited together with the Teachers' Superannuation (Scotland) Regulations 1977 to 1988 as the Teachers' Superannuation (Scotland) Regulations 1977 to 1989.

(2) These Regulations shall come into force on 1st June 1989 and shall have effect from 6th April 1988 except for regulations 3(a), 7, 24 and 25 which shall have effect from 1st June 1989.

**Interpretation**

2. In these Regulations, a reference to "the principal Regulations" is a reference to the Teachers' Superannuation (Scotland) Regulations 1977(c).

**Definitions**

3. In regulation 3 of the principal Regulations—

- (a) after the definition of "Act of 1939" there shall be inserted the following definition:—  
"“the 1965 family benefit regulations” means the Teachers (Superannuation) (Family Benefits) (Scotland) Regulations 1965(d);”;
- (b) after the definition of "agreed" there shall be inserted the following definition:—  
"“appropriate personal pension scheme” means a personal pension scheme for which there is in force a certificate issued in accordance with section 2 of the Social Security Act 1986(e);”;
- (c) after the definition of "disqualifying income" there shall be inserted the following definition:—

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(a) 1972 c.11.  
(b) The function was transferred to the Treasury by S.I. 1981/1670.  
(c) S.I. 1977/1360, amended by S.I. 1977/1808, 1978/1507, 1980/344, 1983/639 and 1431, 1984/2028 and 1988/1618.  
(d) S.I. 1965/680.  
(e) 1986 c.50.

““earnings factors” has the same meaning as in section 13 of the Social Security Act 1975(a);”;

- (d) after the definition of “employer” there shall be inserted the following definition:–  
““excluded employment” has the meaning given by regulation 4A(2);”;
- (e) after the definition of “Pensions Act” there shall be inserted the following definition:–  
““personal pension scheme” has the same meaning as in section 84(1) of the Social Security Act 1986;”;
- (f) after the definition of “Salaries Memorandum” there shall be inserted the following definition:–  
““Self-employed pension arrangement” means a personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(b) which is approved by the Inland Revenue under that Chapter; but which is neither a personal pension scheme within the meaning of the Social Security Act 1986 nor a contract or a scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988;”;
- (g) for the definition of “widower” there shall be substituted:–  
““widower” means the husband of a deceased woman teacher;”.

### **Voluntary Membership**

4.—(1) In regulation 4(2) of the principal Regulations, after sub-paragraph (d) there shall be inserted the words “except at any time when his employment is excluded employment by reason of regulation 4A”.

(2) After regulation 4 of the principal Regulations there shall be inserted the following Regulations:–

#### **“Voluntary Membership**

4A.—(1) Notwithstanding the provisions of regulation 4(2), a teacher who–

- (a) is employed in reckonable service, or
- (b) is not so employed but expects to enter an employment in which he would be so employed,

may at any time, by giving written notice to the Secretary of State, make an election under this Regulation.

(2) As from the date from which the election has effect, the employment referred to in paragraph (1) and any subsequent periods of employment which would otherwise be reckonable service shall, subject to regulation 4B below, not be reckonable service, and employment where this paragraph applies is in these Regulations referred to as “excluded employment”.

(3) An election under this regulation shall have effect–

- (a) where paragraph 1(a) applies, from the first day of the pay period after that in which the notice was received by the Secretary of State;
- (b) where paragraph 1(b) applies, if the notice is received by the Secretary of State within the first pay period of commencing employment, from the date on which the teacher became so employed.

(4) For the purposes of this regulation and regulation 4B–

“pay period” means the period of employment at the end of which a teacher receives payment of salary from his employer.

#### **Resumption of Membership**

4B.—(1) Subject to paragraphs (4) and (5), a teacher who has made an election under regulation 4A, who has since been in excluded employment and who–

- (a) is in excluded employment, or

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(a) 1975 c.14; section 13 was amended by the Social Security Pensions Act 1975 (c.60), Schedule 4, Part I, paragraph 38, by the Social Security Act 1979 (c.18), Schedule 3, paragraph 5, by the Social Security Act 1980 (c.30), section 5, by the Social Security (No. 2) Act 1980 (c.39), Schedule, by the Social Security Act 1985 (c.53), Schedule 5, paragraph 6, and by the Social Security Act 1986 (c.50), Schedule 8, paragraph 2 and Schedule 11.  
(b) 1988 c.1.

(b) is not in, but expects to enter, employment which is excluded employment by virtue of his having previously made an election under regulation 4A, may, at any time, by giving written notice to the Secretary of State, make an election under this regulation.

(2) As from the date on which the election has effect, subject to regulation 4A, any excluded employment on or after that date shall become employment in reckonable service.

(3) An election under this regulation shall have effect—

(a) where paragraph 1(a) applies, from the first day of the pay period after that in which the notice was received by the Secretary of State; and

(b) where paragraph 1(b) applies, if the notice is received by the Secretary of State within the first pay period of commencing that employment, from the date on which he became so employed.

(4) If after making an election under this regulation a teacher makes a further election under regulation 4A above, he may make a further election under this regulation only if, since he made the further election under regulation 4A, there has been a period of not less than 5 years during which he was not in any excluded employment.

(5) For the purposes of this regulation the Secretary of State may in a particular case—

(a) accept an election where the period specified in paragraph (4) is less than 5 years; or

(b) refuse to accept an election where the teacher is on sick leave.”

#### **Part-time service**

5. In regulation 5 of the principal Regulations—

(a) in paragraph (1), there shall be inserted at the beginning the words “Subject to paragraph (6)”;

(b) in paragraph (2), there shall be inserted at the beginning the words “Subject to regulation 4A”; and

(c) after paragraph (5) there shall be added the following paragraph:—

“(6) Paragraph (1) shall not apply to a teacher who has made an election under regulation 4A.”.

#### **Service not reckonable**

6. Regulation 6(3)(b) of the principal Regulations is revoked.

#### **Contributions for pre-April 1972 family pensions**

7. For regulations 30 to 38 of the principal Regulations there shall be substituted the following regulation:—

##### **“Additional contributions for family benefits**

30.—(1) Parts I and III of Schedule 4 have effect for enabling men and unmarried women to pay additional contributions (“family benefit contributions”) in order to secure, or to increase, family benefits in respect of reckonable service before 1st April 1972.

(2) Parts II and III of Schedule 4 have effect for enabling married women to pay family benefit contributions in respect of reckonable service before 6th April 1988.”.

#### **Return of contributions on cessation of employment**

8. In regulation 39 of the principal Regulations—

(a) there shall be inserted at the beginning of paragraph (1) the words “Subject to paragraph (2)”;

(b) there shall be substituted for sub-paragraph (a) of paragraph (1) the following:—

“(a) (i) he is not entitled to any benefit; or

(ii) subject to paragraph (3), he is not qualified by virtue of service under regulation 46;”;

(c) after paragraph (1) there shall be added the following proviso:—

“Provided that the sum payable to a teacher whose application for a refund of contributions under this regulation was received by the Secretary of State before 6th April 1988 shall be reduced in respect of tax chargeable only by the sum by which it would have been reduced if the payment had been made by the Secretary of State on 5th April 1988.”; and

(d) for paragraphs (2) and (3) there shall be substituted the following paragraphs:-

“(2) For the purposes of paragraph (1), the making of an election under regulation 4A shall be treated as ceasing to be employed in reckonable service.

(3) This regulation shall not apply where a transfer value has been paid to the Secretary of State by the trustees or managers of a personal pension scheme in respect of a teacher notwithstanding that he has less than 2 years’ service.”.

#### **Calculation for the purposes of regulations 39 and 41**

9. In regulation 42 of the principal Regulations, paragraphs (10) and (11) are revoked.

#### **Return of member’s contributions**

10. At the end of regulation 43(1) of the principal Regulations there shall be added the following proviso:-

“Provided that the sum payable to a member whose application for a refund of contributions under this regulation was received by the Secretary of State before 6th April 1988 shall be reduced in respect of tax chargeable only by the sum by which it would have been reduced if the payment had been made by the Secretary of State on 5th April 1988.”.

#### **Guaranteed Minimum Pension**

11. In regulation 45A of the principal Regulations-

(a) for paragraphs (2) and (3) there shall be substituted the following:-

“(2) The words and expressions used in this regulation shall have the same meaning as in the Pensions Act(a).

(3) If a teacher has a guaranteed minimum in accordance with section 35 of the Pensions Act(b) in relation to the pension provided for him under these Regulations-

(a) he shall be entitled to receive from state pension age an annual pension payable at a rate equivalent to a weekly rate of not less than the guaranteed minimum;

(b) if the member is a man and dies at any time leaving a widow, in relation to the weekly rate of the pension provided for her under this scheme, she shall be entitled, during any such period as is mentioned in section 36(6) of the Pensions Act, to a long term pension which shall not be less than half that member’s guaranteed minimum;

(c) if the member is a woman and dies on or after 6th April 1989 leaving a widower, in relation to the weekly rate of the pension provided for him under this scheme, he shall be entitled to a long term pension which shall not be less than half of that part of the member’s guaranteed minimum which is attributable to earnings factors for the tax year 1988/89 and subsequent tax years.

(4) The guaranteed minimum pensions referred to in paragraph (3) shall, insofar as they are attributable to earnings factors in the tax years from (and including) 1988/89, be increased in accordance with the requirements of section 37A of the Pensions Act(c) and to the extent of any orders made thereunder.

(5) If the commencement of any member’s guaranteed minimum pension is postponed for any period, his guaranteed minimum shall be increased to the extent,

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(a) The Social Security Pensions Act 1975 (c.60).

(b) Section 35 was amended by the Social Security (Miscellaneous Provisions) Act 1977 (c.5), section 3(2), by the Social Security Act 1979 (c.18), Schedule 3, paragraphs 13 and 18, by the Social Security Act 1985 (c.53), Schedule 3, paragraph 2, and by the Social Security Act 1986 (c.50), section 9(1) and (2) and Schedule 8, paragraph 8.

(c) Section 37A was inserted by the Social Security Act 1986 (c.50), section 9(7).

if any, specified in section 35(6), (6A) and (6B) of the Pensions Act, as amended from time to time.”.

#### **Entitlement to retiring allowances on grounds of age or redundancy**

12. In regulation 46 of the principal Regulations—

(a) in paragraph (1), for sub-paragraphs (a) to (f), there shall be substituted the following:—

“(a) was on 6th April 1988 employed in reckonable service and has been employed in such service, whether before or after that date, for at least 2 years; or

(b) has been employed in reckonable service after 5th April 1988 for at least 2 years; or

(c) served in reckonable service before 6th April 1988 and has been employed in reckonable service or partly in reckonable service and partly in employment of a description specified in Schedule 5, for at least 5 years; or

(d) not being such a person as aforesaid, has been employed in reckonable service during a period in respect of which he has a guaranteed minimum pension being a period in respect of which contributions equivalent premium cannot be paid.”; and

(b) in paragraph (3), for the words “5 years” in both places where they occur, there shall be substituted the words “2 years”.

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

13. In regulation 49(2) of the principal Regulations, sub-paragraphs (cc) and (ccc) are revoked.

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

14. In regulation 51 of the principal Regulations—

(a) in paragraph (1), there shall be inserted, before the words “If while he is employed”, the words “Subject to paragraph (1A),”;

(b) in paragraph (1)(a), there shall be inserted, after the words “if he has completed”, the words “5 years but”; and

(c) after paragraph (1) there shall be inserted the following:—

“(1A) In relation to a teacher employed in part-time service, paragraph (1) shall apply if—

(a) the period over which the part-time service was recorded as reckonable service, in accordance with regulation 5(4)(a), extends to at least 5 years, and

(b) for the purposes of calculating the retiring allowance under regulation 47 the reference in paragraph (1) to years completed shall be construed as a reference to the reckonable service calculated in accordance with regulation 5(4)(b).”.

#### **Death gratuities**

15. In regulation 57(2)(b) of the principal Regulations, for the words “5 years”, there shall be substituted the words “2 years”.

#### **Abatement of annual pension**

16. In regulation 60(1) of the principal Regulations, the following paragraph shall be added after paragraph (a):—

“(aa) excluded employment by virtue of an election made under regulation 4A.”.

#### **Short-term pensions**

17. In regulation 63(2)(b) of the principal Regulations, for “5”, there shall be substituted “2”.

## Long-term pensions

### 18. In regulation 64 of the principal Regulations—

- (a) in paragraph (1), there shall be inserted at the beginning the words “Subject to paragraph (1B),” and for “5” there shall be substituted “2”;
- (b) in paragraph (1A), for the words “46(1)(e)”, there shall be substituted the words “46(1)(d)”;
- (c) there shall be inserted after paragraph (1A) the following:—

“(1B) In respect of a teacher such as is mentioned in paragraph (1), who dies while employed in reckonable service, or to whom retiring allowances were paid on grounds of incapacity by virtue of regulation 47, and whose service counting for benefit is less than 5 years, in calculating any long-term pension Note 2 to Table 2 shall be disregarded.”;

- (d) in paragraph (4), for the words “widow or”, there shall be substituted “widow, widower,”; and
- (e) for paragraph (8) there shall be substituted the following:—

“Notwithstanding the provisions of this regulation and Schedules 8 and 9, in the case of a widow of a teacher who was employed in reckonable service after 5th April 1978, or in the case of a widower of a teacher last employed after 5th April 1988, where the marriage took place after the day on which the teacher was last employed in reckonable service, the reckonable service counting for benefit shall in respect of a widow or widower be the reckonable service after 5th April 1978 and 5th April 1988 respectively.”.

## Widowers' long term pension

### 19. After regulation 64 of the principal Regulations there shall be inserted the following:—

#### “Widowers' long-term pension

**64A.—**(1) Subject to regulation 64B, on the death of a teacher who was employed in reckonable service for at least 2 years, there shall be paid to her widower a pension calculated in accordance with paragraph (3).

(2) In respect of a teacher referred to in paragraph (1) who dies while employed in reckonable service or while in receipt of an incapacity pension by virtue of regulation 47 and who has at least 5 years' reckonable service, the reckonable service in paragraph (3) shall be enhanced by such number of years as bears to any period which (disregarding any past added years which she elects to purchase) was or could have been added to her reckonable service by virtue of regulation 51 the same as the number of years of her reckonable service after 5th April 1988 bears to her total reckonable service.

(3) Subject to paragraph (2) the pension payable to a widower shall be calculated by multiplying 1/160th of the teacher's pensionable salary by the number of years of her reckonable service after 5th April 1988 together with any period for which family benefit contributions have been paid in accordance with an election made under Parts I or II of Schedule 4, any period of reckonable service credited by virtue of the receipt of, after 5th April 1988, a transfer value under regulation 73 and any past added years the teacher elected to purchase after 5th April 1988 under Part III.

**64B.** Where a married woman teacher has before 6th April 1988 nominated under previous provisions a person, other than a spouse, to receive a pension under this Part, and she is entitled to a guaranteed minimum pension in relation to benefits under these Regulations, the long term pension payable to her widower following her death, if the nomination has not been revoked, shall be the aggregate of the following amounts:—

- (a) a pension equal to one half of that part of the teacher's guaranteed minimum which is attributable to earnings for the tax year 1988/89 and subsequent tax years; and
- (b) a pension calculated in the manner prescribed in regulation 64A(3) for any period for which family benefit contributions have been paid in accordance with an election made under Parts I or II of Schedule 4.”.

## **Nomination of beneficiaries**

**20.** Regulation 65 of the principal Regulations shall be substituted by the following:-

### **“Nomination of beneficiaries**

**65.—(1)** Subject to paragraph (2), an unmarried person (“the appointer”) may at any time while employed in reckonable service, by giving written notice to the Secretary of State, nominate an eligible person who is wholly or mainly financially dependent on the appointer and who is not a child to receive a pension under regulations 63 and 64.

(2) No person may be nominated while a previous nomination under this regulation has effect.

(3) The eligible persons are-

- (a) a parent of the appointer,
- (b) an unmarried brother or sister of the appointer, and
- (c) a widowed step-parent of the appointer.

(4) A nomination under this regulation may be revoked by giving written notice to the Secretary of State, and if not previously revoked ceases to have effect-

- (a) on the death or marriage (or, as the case may be, remarriage) of the person nominated, and
- (b) on the marriage of the appointer.

(5) The references in paragraphs (2) and (4) to a nomination under this regulation include references to a nomination made before 6th April 1988 for the purposes of this Part or of previous provisions relating to family benefits.”.

## **Special pension for widow**

**21.** In regulation 66(b) of the principal Regulations, for the words “5/160ths”, there shall be substituted the words “1/80th”.

## **Payment of transfer values**

**22.** In regulation 72 of the principal Regulations-

- (a) in paragraph (1), for the words “(hereafter referred to as his “old employment”),”, there shall be substituted the words “or is a person who entered excluded employment by virtue of an election made under regulation 4A.”;
- (b) in paragraph (1)(a), for the words “his old employment terminated”, there shall be substituted the words “he ceased to be employed in reckonable service or entered excluded employment”;
- (c) in paragraph (1)(b)(ii), for the words “leaving his old employment”, there shall be substituted the words “ceasing to be employed in reckonable service” and for the words “6 months”, there shall be substituted the words “12 months”;
- (d) at the end of paragraph (1)(b)(ii), for the semi-colon, there shall be substituted the word “or” and the following head shall be added:-
  - “(iii) who after ceasing to be employed in reckonable service or entering excluded employment participates in a personal pension scheme or a self-employed pension arrangement and has within 12 months of beginning to so participate made an application such as is mentioned in sub-paragraph (d) for payment of a transfer value;”;
- (e) in paragraph (1)(c), for the words “old employment” where they first occur, there shall be substituted the words “reckonable service” and, where they next both occur, the words “in his old employment” shall be deleted;
- (f) in paragraph (1)(d)(ii), for the words “his old employment terminated”, there shall be substituted the words “he ceased to be employed in reckonable service or entered excluded employment”; and
- (g) after paragraph (5) there shall be inserted the following:-

“(6) When the payment of a transfer value is made, the teacher’s accrued rights, within the meaning given in Schedule 10, to which it relates, shall cease to be treated as such for all purposes of these Regulations.”.

**Receipt of transfer values**

**23.** In regulation 73 of the principal Regulations—

- (a) in paragraph (1), after “superannuation scheme”, there shall be inserted the words “, a personal pension scheme or a self-employed pension arrangement”;
- (b) in paragraph (1)(a), after the words “superannuation scheme”, there shall be inserted the words “, personal pension scheme or self-employed pension arrangement”; and
- (c) in paragraph (1)(b), after the words “superannuation scheme”, there shall be inserted the words “personal pension scheme or self-employed pension arrangement”.

**Purchase of Past Added Years – current provisions**

**24.—(1)** Part I of Schedule 2A to the principal Regulations is amended—

- (a) in paragraph 2(1), by deleting the words “not less than 5 in number”;
- (b) in paragraph 3(2), by inserting after the words “Table 1” the words “or, as the case may be, Table 1A”; and
- (c) by inserting after Table 1 the following:—



"TABLE 1A

Period of contribution in years	1	2	3	4
Teachers' age	Percentage contribution in respect of each year purchased			
20	32.96	15.97	10.35	7.59
21	31.79	15.32	9.88	7.20
22	30.66	14.71	9.45	6.84
23	29.59	14.15	9.05	6.52
24	28.57	13.62	8.69	6.24
25	27.61	13.14	8.36	5.99
26	26.63	12.71	8.10	5.81
27	25.74	12.31	7.86	5.64
28	24.93	11.95	7.64	5.50
29	24.20	11.63	7.45	5.37
30	23.55	11.34	7.28	5.26
31	23.04	11.12	7.15	5.17
32	22.59	10.91	7.03	5.10
33	22.18	10.73	6.93	5.03
34	21.83	10.58	6.85	4.98
35	21.52	10.45	6.78	4.94
36	21.31	10.37	6.73	4.92
37	21.14	10.30	6.70	4.90
38	20.99	10.25	6.67	4.89
39	20.87	10.21	6.66	4.89
40	20.78	10.18	6.65	4.89
41	20.75	10.18	6.65	4.90
42	20.74	10.18	6.67	4.91
43	20.74	10.20	6.68	4.93
44	20.76	10.22	6.70	4.95
45	20.81	10.25	6.73	4.97
46	20.87	10.29	6.76	5.00
47	20.94	10.33	6.80	5.03
48	21.04	10.39	6.84	5.06
49	21.16	10.45	6.89	5.10
50	21.29	10.52	6.94	5.15
51	21.44	10.61	7.00	5.20
52	21.61	10.70	7.07	5.25
53	21.80	10.80	7.15	5.32
54	22.01	10.92	7.23	5.39
55	22.23	11.04	7.32	5.46
56	22.59	11.24	7.47	5.58
57	23.00	11.48	7.64	5.73
58	23.47	11.74	7.84	5.89
59	23.99	12.04	8.07	6.08
60	24.57	12.38	8.31	6.28
61	24.05	12.12	8.14	6.15
62	23.53	11.85	7.96	6.02
63	23.01	11.59	7.79	5.88
64	20.28	10.14	6.76	5.07
65	21.97	11.07	7.43	5.62
66	21.44	10.78	7.23	
67	20.91	10.49		
68	20.39			

"

- (2) Part III of Schedule 2A to the principal Regulations is amended—
- (a) in paragraph 2(1)(a)(ii), by substituting for the words “less than 5 nor” the words “less than one year nor”;
  - (b) in paragraph 2(1)(b), by inserting after the words “a period of” the words “not less than one year nor more than”;
  - (c) in paragraph 3, by deleting the words “or 5”;
  - (d) in paragraph 4(1), by deleting the words from “In the case” to “election”;
  - (e) in paragraph 4(2), by deleting the words “In such case” and by substituting for the words “the following Table 4” the words “the appropriate Table”;
  - (f) by inserting after paragraph 4(2) the following:—
    - “(2A) The appropriate Table—
    - (a) in the case of a teacher who has not attained the age of 55 on 1st October next following his giving notice of his election, is Table 4 or, as the case may be, Table 4A below, and
    - (b) in any other case, is Table 5 below.”;
  - (g) by deleting paragraph 5; and
  - (h) by inserting after Table 4 the following:—

“TABLE 4A

Range within which relevant rate of interest falls %	Contribution period in years			
	1	2	3	4
5.00– 5.49	0.0859	0.0441	0.0302	0.0233
5.50– 5.99	0.0861	0.0444	0.0305	0.0235
6.00– 6.49	0.0863	0.0446	0.0307	0.0238
6.50– 6.99	0.0865	0.0448	0.0309	0.0240
7.00– 7.49	0.0868	0.0450	0.0311	0.0242
7.50– 7.99	0.0870	0.0452	0.0314	0.0244
8.00– 8.49	0.0872	0.0455	0.0316	0.0247
8.50– 8.99	0.0874	0.0457	0.0318	0.0249
9.00– 9.49	0.0877	0.0459	0.0320	0.0251
9.50– 9.99	0.0879	0.0461	0.0323	0.0254
10.00–10.49	0.0881	0.0463	0.0325	0.0256
10.50–10.99	0.0883	0.0466	0.0327	0.0258
11.00–11.49	0.0886	0.0468	0.0329	0.0260
11.50–11.99	0.0888	0.0470	0.0332	0.0263
12.00–12.49	0.0890	0.0472	0.0334	0.0265
12.50–12.99	0.0892	0.0475	0.0336	0.0268
13.00–13.49	0.0894	0.0477	0.0338	0.0270
13.50–13.99	0.0897	0.0479	0.0341	0.0272
14.00–14.49	0.0899	0.0481	0.0343	0.0275
14.50–14.99	0.0901	0.0484	0.0345	0.0277
15.00–15.49	0.0903	0.0486	0.0348	0.0279
15.50–15.99	0.0906	0.0488	0.0350	0.0282
16.00–16.49	0.0908	0.0490	0.0352	0.0284
16.50–16.99	0.0910	0.0493	0.0355	0.0287
17.00–17.49	0.0912	0.0495	0.0357	0.0289
17.50–17.99	0.0914	0.0497	0.0359	0.0292
18.00–18.49	0.0917	0.0499	0.0362	0.0294
18.50–18.99	0.0919	0.0502	0.0364	0.0296
19.00–19.49	0.0921	0.0504	0.0366	0.0299
19.50–19.99	0.0923	0.0506	0.0369	0.0301

TABLE 5

Range within which relevant rate of interest falls %	Contribution period in years				
	1	2	3	4	5
5.00- 5.49	0.0860	0.0443	0.0304	0.0235	0.0194
5.50- 5.99	0.0863	0.0445	0.0306	0.0237	0.0196
6.00- 6.49	0.0865	0.0448	0.0309	0.0239	0.0198
6.50- 6.99	0.0867	0.0450	0.0311	0.0242	0.0200
7.00- 7.49	0.0869	0.0452	0.0313	0.0244	0.0203
7.50- 7.99	0.0872	0.0454	0.0315	0.0246	0.0205
8.00- 8.49	0.0874	0.0456	0.0318	0.0249	0.0207
8.50- 8.99	0.0876	0.0459	0.0320	0.0251	0.0210
9.00- 9.49	0.0878	0.0461	0.0322	0.0253	0.0212
9.50- 9.99	0.0881	0.0463	0.0324	0.0256	0.0214
10.00-10.49	0.0883	0.0465	0.0327	0.0258	0.0217
10.50-10.99	0.0885	0.0468	0.0329	0.0260	0.0219
11.00-11.49	0.0887	0.0470	0.0331	0.0263	0.0222
11.50-11.99	0.0890	0.0472	0.0334	0.0265	0.0224
12.00-12.49	0.0892	0.0474	0.0336	0.0267	0.0226
12.50-12.99	0.0894	0.0476	0.0338	0.0270	0.0229
13.00-13.49	0.0896	0.0479	0.0340	0.0272	0.0231
13.50-13.99	0.0898	0.0481	0.0343	0.0274	0.0234
14.00-14.49	0.0901	0.0483	0.0345	0.0277	0.0236
14.50-14.99	0.0903	0.0485	0.0347	0.0279	0.0239
15.00-15.49	0.0905	0.0488	0.0350	0.0282	0.0241
15.50-15.99	0.0907	0.0490	0.0352	0.0284	0.0244
16.00-16.49	0.0910	0.0492	0.0354	0.0287	0.0246
16.50-16.99	0.0912	0.0494	0.0357	0.0289	0.0249
17.00-17.49	0.0914	0.0497	0.0359	0.0291	0.0251
17.50-17.99	0.0916	0.0499	0.0361	0.0294	0.0255
18.00-18.49	0.0919	0.0501	0.0364	0.0296	0.0257
18.50-18.99	0.0921	0.0504	0.0366	0.0299	0.0260
19.00-19.49	0.0923	0.0506	0.0369	0.0301	0.0262
19.50-19.99	0.0925	0.0508	0.0371	0.0304	0.0265

### Family benefit contributions

25. For Schedule 4 to the principal Regulations there shall be substituted the Schedule set out in the Schedule to these Regulations.

### Schedule 7 (Short-term pensions)

26. In Schedule 7 to the principal Regulations—

(a) in Table 1, for the words “Widow or widower or other adult nominated beneficiary”, where they appear against categories 1, 2 and 3, there shall be substituted the words “Widow, widower or adult nominated beneficiary”;

(b) note 1 shall be substituted by the following:—

“An adult nominated beneficiary includes a widower of a teacher who was nominated before 6th April 1988.”;

(c) in note 3 the word “other” shall be deleted; and

(d) for note 4 there shall be substituted the following:—

“4. Subject to note 5, in relation to a widower of a teacher who was in reckonable service on or after 6th April 1988, in the heading of Tables 1 and 2 for the words “service counting for benefit under Schedule 9” there shall be substituted the words “reckonable service” and in the heading of Table 3 for the words “5 or more years’ reckonable service counting for benefit under Schedule 9” there shall be substituted the words “2 or more years’ reckonable service”.

5. In relation to a teacher to whom regulation 64(1A) applies, the words "5 or more years' service counting for benefit under Schedule 9" in the heading of Table 2 and the words "with 5 or more years' service counting for benefit under Schedule 9" in the heading of Table 3, as varied by note 4, shall be omitted."

#### **Schedule 8 (Amount of adults' long-term pension)**

27. In Schedule 8 to the principal Regulations—

- (a) in the headings of columns 1 and 2 in Table 2, there shall be added, after the word "widow" the word ", widower"; and
- (b) for Note 3 to Table 2 there shall be substituted the following:—

"3. Where the pension received by a widow, widower or adult nominated beneficiary ceases for any reason, any child's pension payable under column (1) shall become payable under column (2) as from the date of cessation."

#### **Schedule 9 (Service counting for benefit)**

28. In paragraph 2(i) of Schedule 9 to the principal Regulations, there shall be inserted, after the words "by virtue of regulation 47," the words "and whose reckonable service amounted to at least 5 years,".

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

29. In Schedule 10 to the principal Regulations—

- (a) for paragraph 3 there shall be substituted the following paragraphs:—

"3. Where a person requests that a transfer value be paid to—

- (a) (i) a superannuation scheme which is not contracted out within the meaning of section 32 of the Pensions Act(a); or
- (ii) a personal pension scheme which is not an appropriate personal pension scheme; or
- (iii) a self-employed pension arrangement; and
- (b) the trustees or managers of the superannuation scheme, personal pension scheme or self-employed pension arrangement are able or willing to have transferred to it only the liabilities for a member's accrued rights other than his or her and their respective spouses' rights to guaranteed minimum pensions; and
- (c) the member does not require the Secretary of State to use that portion of the transfer value that represents guaranteed minimum pension in one of the ways specified in regulation 72(1),

the member's transfer value shall be reduced by the amount of a state scheme premium sufficient for the Secretary of State for Social Services to meet his liability in respect of the member's and his or her spouse's guaranteed minimum pensions.

3A.(a) Subject to sub-paragraph (b), in respect of a person who is in excluded employment by virtue of an election under regulation 4A, the transfer value calculated in accordance with this Part shall be the aggregate of the following:

- (i) in relation to the person's retiring allowance, that part of his accrued rights which bears the same proportion to his total accrued rights as his reckonable service after 5th April 1988 bears to his total reckonable service; and
- (ii) in relation to his spouse's pension, that part of his accrued rights applicable to service after 5th April 1988;
- (b) Sub-paragraph (a) shall not apply to a person whose reckonable service before 6th April 1988 amounts to less than 2 years.
- (c) Where—

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(a) Section 32 was amended by the Social Security and Housing Benefits Act 1982 (c.24), Schedule 4, paragraph 20 and by the Social Security Act 1986 (c.50), Schedule 2, paragraph 5, Schedule 10, paragraph 16 and Schedule 11.

- (i) a transfer value limited in accordance with sub-paragraph (a) has been paid in respect of a person; and
  - (ii) that person has subsequently ceased to be employed in excluded employment other than by virtue of an election under regulation 4B before attaining the age of 60 years, or, where regulation 72(2) applies, the age of 59 years,
- a right to a transfer value in respect of any part of his accrued rights to which, but for the operation of sub-paragraph (a), he would have been entitled on ceasing to be employed in reckonable service, shall accrue to the person on the date on which he ceased to be employed in excluded employment and shall be valued accordingly.
- (d) In relation to any person to whom sub-paragraph (c) applies—
    - (i) regulation 72(1)(d)(ii) shall have effect as if for the words “he ceased to be employed in reckonable service or entered excluded employment” there were substituted the words “he terminated excluded employment”; and
    - (ii) the definition of “material date” in paragraph 4(c) shall have effect as if for the words “ceased to be employed in reckonable service or entered excluded employment” there were substituted the words “terminated excluded employment”.
  - (e) For the purposes of this paragraph, where a person ceases to be employed in excluded employment other than by virtue of an election under regulation 4B but that person enters again into excluded employment or enters reckonable service, then, if there is between those two employments—
    - (i) an interval not exceeding one month; or
    - (ii) an interval of any length if the second of the employments results from the exercise of a right to return to work under section 45(1) of the Employment Protection (Consolidation) Act 1978(a) (right to return to work following pregnancy or confinement),
 they shall be treated as a single employment.”;
  - (f) in the definition of “material date” in paragraph 4(c), after the words “employed in reckonable service”, there shall be inserted the words “or entered excluded employment”.

#### **Teachers' superannuation account**

30. In the form of account in Part I of Schedule 11 to the principal Regulations, after Head BI(iv), there shall be inserted the following:—

“v. Widowers' pension .....,” and

items “v”, “vi” and “vii” shall be renumbered “vi”, “vii” and “viii” respectively.

#### **Transitional provisions**

31. The amendments made by regulations 12, 14 and 15 shall apply only where the person ceased to hold the employment concerned, or (in relation to regulations 17 to 19) where the death concerned occurred, on or after 5th April 1988.

#### **Right to opt out**

32. No provision of these Regulations shall apply to any person to whom at any time before 1st June 1989 any benefit including a return of contributions was or may become payable if—

- (a) he is placed by that provision in a worse position than he would have been in if it had not applied in relation to that benefit; and
- (b) that provision relates to a benefit paid or payable in respect of a person who—
  - (i) ceased before 1st June 1989 to be in reckonable service; or
  - (ii) died before that date while employed in reckonable service; and

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(a) 1978 c.44.

- (c) the person first mentioned in this regulation elects by giving notice in writing to the Secretary of State within 6 months after 1st June 1989, that the provision shall not apply to him.

St. Andrew's House, Edinburgh  
4th April 1989

*Michael B. Forsyth*  
Parliamentary Under Secretary of State,  
Scottish Office

We consent,

11th April 1989

*David Lightbown*  
*David Maclean*  
Two of the Lords Commissioners of Her Majesty's Treasury

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## SCHEDULE

Regulation 25

### SCHEDULE SUBSTITUTED FOR SCHEDULE 4 TO THE PRINCIPAL REGULATIONS

#### "SCHEDULE 4

Regulation 30

#### FAMILY BENEFIT CONTRIBUTIONS

##### PART I

##### MEN AND UNMARRIED WOMEN

1.—(1) In this Part—

"the Fund" means the Teachers' Family Benefits Fund established by regulation 37 of the 1965 family benefit regulations and continued by regulation 13 of the 1971 family benefit regulations;

"member" means a man who—

- (a) has been employed in reckonable service at any time after 31st March 1972;
- (b) immediately before 1st April 1972 had service counting for benefit within the meaning of regulation 37 of the 1971 family benefit regulations; and
- (c) has not received a repayment of contributions paid by him under the 1965 family benefit regulations or the 1971 family benefit regulations; and

"non-member" means a man other than a member, who

- (a) has been employed in reckonable service at any time after 31st March 1972; and
- (b) is entitled to count a period that ended before 1st April 1972 as reckonable service.

(2) A member's normal contributions are the contributions paid by him under regulation 6 of the 1965 family benefit regulations or regulation 25 of the 1971 family benefit regulations, and his normal service is the period in respect of which he paid them.

(3) A member's additional contributions are any contributions paid by him under regulation 9 of the 1965 family benefit regulations or under regulation 26 or 27 of the 1971 family benefit regulations, and the additional period is the period in respect of which he elected to pay them.

(4) A member's deemed normal service is two-thirds of any service before 1st April 1972 in respect of which the full amount of normal contributions was held in the Fund immediately before that date.

(5) A member's deemed additional service is  $\frac{A \times B}{C}$ , where—

A is the factor ascertained from Table 1 below,

B is the amount of the additional contributions held in the Fund immediately before 1st April 1972, and

C is the annual rate of his salary at that time.

TABLE 1

<i>Age at last birthday before 1st April 1972</i>	<i>Factor</i>	<i>Age at last birthday before 1st April 1972</i>	<i>Factor</i>
18	21.4	40	50.3
19	23.9	41	50.2
20	26.2	42	50.0
21	28.4	43	49.8
22	30.6	44	49.6
23	32.6		
24	34.5	45	49.4
		46	49.3
25	36.3	47	49.2
26	38.0	48	49.1
27	39.6	49	49.0
28	41.1		
29	42.6	50	49.0
		51	49.0
30	43.9	52	49.0
31	45.2	53	48.9
32	46.4	54	48.9
33	47.4		
34	48.4	55	48.8
		56	48.8
35	49.2	57	48.7
36	49.8	58	48.7
37	50.0	59	48.6
38	50.2		
39	50.3	60 and over	48.6

(6) A member's credited service is 165.6% of the total of his deemed normal service and any deemed additional service.

(7) References in this Part to "Method I", "Method II" and "Method III" are references to the Methods so designated in the 1965 family benefit regulations.

2.—(1) Subject to sub-paragraph (3) and paragraph 4, a member who elected to pay additional contributions by Method I or Method II may elect to pay family benefit contributions in respect of all or part of a period not exceeding in length the difference between his credited service and the total of the additional period and his normal service.

(2) Subject to sub-paragraph (3) and paragraph 4, a member who elected to pay additional contributions by Method III may by an election under this paragraph—

- (a) revoke the earlier election, or
- (b) revoke the earlier election and elect to pay family benefit contributions in respect of the additional period, or part of it, or
- (c) vary the earlier election so as to relate to part only of the additional period and elect to pay family benefit contributions in respect of the remaining part.

(3) The period in respect of which a member elects to pay family benefit contributions as mentioned in sub-paragraph (1) or (2) is not to exceed  $A - (B + \frac{5 \times (C - B)}{6})$ , where—

- A is the length of reckonable service attributable to any period that ended before 1st April 1972,  
 B is the total length of his normal service and the additional period, and  
 C is the length of his credited service.

(4) A member may elect to pay family benefit contributions in respect of all or part of any period in respect of which he could have elected, but did not elect, to pay additional contributions.

3. Subject to paragraph 4, a non-member or an unmarried woman may elect to pay family benefit contributions in respect of the whole or a part of any reckonable service attributable to a period that ended before 1st April 1972.

4.—(1) A man who has become entitled to payment of allowances may not make an election under paragraph 2 or 3.

(2) An election under paragraph 2 or 3 must—

(a) be made by giving written notice to the Secretary of State within the period specified in sub-paragraphs (3) to (5),  
 (b) specify the period in respect of which it is made, and  
 (c) specify the rate at which family benefit contributions are to be paid, which must comply with paragraph 13(2) and (3),  
 and has effect from the date on which the notice is received by the Secretary of State, and, except as provided in paragraph 13(4), is irrevocable.

(3) Subject to sub-paragraph (4), a man may only make an election under paragraph 2 or 3 within 6 months after—

- (a) his marriage while in employment in reckonable service, or
- (b) his returning to employment in reckonable service after becoming married while not in such employment, or
- (c) where he is a person who was not continuously employed in reckonable service for a period of 6 months during either of the periods mentioned in sub-paragraph 4(a) or (b) and ceases to be employed within 6 months of his returning to such employment, his returning again to such employment.
- (d) his nomination of a beneficiary under regulation 65,

whichever occurs first.

(4) An election under paragraph 2 or 3 may be made by

- (a) a member who was not continuously in employment in reckonable service for 6 months or more after 31st October 1974 and before 31st July 1977, or
- (b) a non-member who was not continuously in such employment for 6 months or more after 8th January 1974 and before 1st August 1977,

only within 6 months after returning to reckonable service.

(5) A woman may only make an election under paragraph 3 within 6 months after nominating a beneficiary.

5.—(1) Where a person has made an election under paragraph 2(2) or (4) or paragraph 3 the period during which, subject to paragraph 13(7) to (10), the family benefit contributions are to be paid ("the payment period") is to be ascertained from, or where the period in respect of which the election was made is not an exact number of years by extrapolation from, Table 2 below.

TABLE 2

Age on date from which contributions are payable	Period in years for which contributions are to be paid in respect of each year of election period									
	Rate of contributions									
	1%	2%	3%	4%	5%	6%	7%	8%	9%	
32 or under	3.15	1.58	1.05	.79	.63	.525	.45	.395	.35	
33-37	3.20	1.60	1.07	.80	.64	.535	.46	.40	.355	
38-42	3.30	1.65	1.10	.82	.66	.55	.47	.41	.365	
43-47	3.35	1.68	1.12	.84	.67	.56	.48	.42	.37	
48 and over	3.40	1.70	1.13	.85	.68	.565	.485	.425	.375	

(2) Where a man has made an election under paragraph 2(1) the payment period is, subject to paragraph 13(7) to (10), 5/6ths of the period ascertained in accordance with sub-paragraph (1).

6.—(1) This paragraph applies where a member who elected to pay additional contributions by thod III has not revoked that election, and he—

- (a) dies in employment in reckonable service leaving a widow or having nominated a beneficiary under regulation 65, or
- (b) becomes qualified for allowances while married or after nominating a beneficiary.

(2) Where this paragraph applies there is to be deducted from the appropriate terminal sum an amount of  $\frac{A \times B}{100} \times \frac{5 \times C}{6}$ , where—

A is the member's average salary,

B is the factor ascertained from Table 3 below, and

C is the period calculated in accordance with sub-paragraph (3).



TABLE 3

<i>Age</i>	<i>Factor</i>
39 or under	3.8
40 to 49	3.7
50	3.6
51	3.6
52	3.6
53	3.6
54	3.5
55	3.5
56	3.5
57	3.4
58	3.4
59	3.3
60	3.3
61	3.2
62	3.1
63	3.1
64 and over	3.0

(3) The period is  $(D + E) - (F + G + H)$ , where—

D is the additional period in respect of which he elected to pay contributions by Method III, together with any additional period for which he elected to pay contributions by Method I or II,

E is his normal service,

F is his credited service,

G is any period or periods for which he has elected to pay family benefit contributions under paragraph 2, and

H is any additional period in respect of which he elected to pay contributions by Method I or II, less his credited service in respect of deemed additional service attributable to contributions so paid, and less any period for which he has elected under paragraph 2(1) to pay family benefit contributions.

7.—(1) Subject to sub-paragraphs (2) and (3), a member or non-member who—

(a) is not employed in reckonable service and has become entitled to payment of allowances, and

(b) would otherwise have been able to make an election under paragraph 2 or 3,

may make a corresponding election under this paragraph.

(2) An election under this paragraph—

(a) must be made by giving written notice to the Secretary of State within 6 months after the date on which the man became entitled to payment of allowances,

(b) must specify the period in respect of which it is made, and

(c) is irrevocable.

(3) The family benefit contributions payable as a result of an election under this paragraph consist of a lump sum of  $\frac{A}{100} \times (B \times C)$ , where—

A is the annual rate at which his salary was last payable,

B is the length, expressed in years and any fraction of a year, of the period in respect of which the election was made, and

C is the factor ascertained from Table 4 below,

but where the election made corresponds to one that could have been made under paragraph 2(1), B is reduced by 1/6th.

TABLE 4

<i>Age on date of election</i>	<i>Factor</i>
32 or under	3.15
33-37	3.20
38-42	3.30
43-47	3.35
48 and over	3.40

8.—(1) This paragraph applies where—

- (a) a member or non-member dies before becoming entitled to payment of allowances, and
- (b) he has not made an election under paragraph 2 or 3, but could still have done so if he had not died, and
- (c) he leaves a widow.

(2) Where this paragraph applies the widow may, subject to sub-paragraph (3), elect to pay family benefit contributions in respect of a period comprising all or part of so much of the deceased's reckonable service as would otherwise not count in the calculation of family benefits.

(3) An election under this paragraph—

- (a) must be made by giving written notice to the Secretary of State within 3 months after the death,
- (b) must specify the period in respect of which it is made, and
- (c) must result in a total of not less than 2 years' reckonable service counting in the calculation of family benefits, and
- (d) ceases to have effect if the family benefit contributions are not paid within 3 months after its date.

(4) The family benefit contributions payable as a result of an election under this paragraph consist of a lump sum which is the actuarial equivalent of the contributions that would have been payable by the deceased if—

- (a) he had made an election under paragraph 2, or as the case may be paragraph 3, in respect of the same period, and
- (b) notice of that election had been given on the day before his death and had specified as the rate at which family benefit contributions were to be paid the maximum allowed by paragraph 13(2) and (3).

## PART II

### MARRIED WOMEN

9.—(1) Subject to sub-paragraph (3) and paragraph 10, a woman in relation to whom the election conditions are satisfied may elect to pay family benefit contributions in respect of the whole or a part of any reckonable service attributable to a period—

- (a) that ended before 1st April 1972, or
- (b) for which contributions have been paid under regulations 21 to 28 (past and current added years)

or attributable to the receipt, before 6 April 1988, of a transfer value.

(2) Subject to sub-paragraph (3) and paragraph 10, a woman in relation to whom the election conditions are satisfied may elect to pay family benefit contributions in respect of the whole or a part of any reckonable service attributable to a period that—

- (a) began after 31st March 1972 and ended before 6th April 1988, and
- (b) would otherwise not count in calculating any pension becoming payable to her widower.

(3) Where an election is made in respect of a part only of any service, the part must consist of one or more whole years.

(4) The election conditions are that she is married, and either—

- (a) is employed in reckonable service, or
- (b) ceased after 5th April 1988 and before 1st January 1990 to be so employed and immediately became entitled to payment of retiring allowances.

10.—(1) An election under paragraph 9(1) or (2)—

- (a) must be made by giving written notice to the Secretary of State within the period specified in sub-paragraphs (2) to (4),
- (b) must specify the period in respect of which it is made,
- (c) must state whether the contributions are to be paid by Method A (periodical payments) or by Method B (lump sum),
- (d) if the contributions are to be paid by Method A, must specify the rate at which they are to be paid, which must comply with paragraph 13(2) and (3),
- (e) has effect from the date on which the notice is received by the Secretary of State, and
- (f) except as provided in paragraph 13(4), is irrevocable.

(2) The period within which an election may be made is one of 6 months beginning on the relevant date.

(3) Where paragraph 9(4)(b) applies, the relevant date is 1st July 1989; in any other case, subject to sub-paragraph (4), the relevant date is the first date after 30th June 1989 on which the election conditions are satisfied.

(4) If, during the period of 6 months beginning on that first date, the election conditions cease to be satisfied, the relevant date becomes the first date on which they are again satisfied.

(5) A woman who could make an election under paragraph 9(2) may only make one under paragraph 9(1) if, and at the same time as, she elects under paragraph 9(2) to pay family benefit contributions in respect of the whole of the reckonable service there mentioned.

(6) Where elections are made both under paragraph 9(1) and under paragraph 9(2) they must specify the same method of payment.

(7) Payment may not in any case be made by Method A if—

- (a) the payment period would be less than one year, or
- (b) the woman's employment in reckonable service is part-time; or
- (c) she is not employed in reckonable service.

11.—(1) Subject to sub-paragraph (2), where payment is to be made by Method A the payment period is to be ascertained from, or where the period in respect of which the election was made is not an exact number of years by extrapolation from, Table 5 below.

TABLE 5

*Period in years for which contributions are to be paid in respect of each year of period specified in election*

<i>Rate of contributions</i>	<i>Election under paragraph 9(1)</i>	<i>Election under paragraph 9(2)</i>
1%	1.45	0.42
2%	0.69	0.20
3%	0.46	0.14
4%	0.33	0.10
5%	0.27	0.08
6%	0.22	0.07
7%	0.18	0.06
8%	0.16	0.05
9%	0.14	0.04

(2) If the period ascertained in accordance with sub-paragraph (1) ("the Table period") does not end with the last day of a month, the payment period ends with the last day of the month in which the Table period ends.

(3) Where payment is to be made by Method B the lump sum payable, which must be payable within 3 months after its amount is notified by the Secretary of State, is—

- (a) for each year of service in respect of which an election was made under paragraph 9(1), 1.25%, and
- (b) for each year of service in respect of which an election was made under paragraph 9(2), 0.4%, of the appropriate amount, and pro rata for any period of less than a year.

(4) The appropriate amount is—

- (a) where the woman was employed in reckonable service when the election took effect, the annual rate of her salary at that time, and
- (b) in any other case, her pensionable salary.

12.—(1) The widower of a woman who—

- (a) died during the period beginning on 6th April 1988 and ending with 31st December 1989 without having made an election under paragraph 9, and
- (b) either was employed in reckonable service when she died or had ceased during that period to be so employed,

may make a corresponding election under this paragraph.

(2) A married woman who—

- (a) ceased to be employed in reckonable service during the period mentioned in sub-paragraph (1), and
- (b) on ceasing to be so employed did not immediately become entitled to payment of retiring allowances,

may make a corresponding election under this paragraph if the conditions in sub-paragraph (3) are satisfied.

(3) The conditions are that—

- (a) she did not again become employed in reckonable service, and
- (b) she has become entitled to payment of retiring allowances.

(4) Where a woman to whom sub-paragraphs (2) and (3) would otherwise have applied dies before becoming entitled to payment of allowances, her widower may make a corresponding election under this paragraph.

(5) An election under this paragraph—

- (a) must be made by giving written notice to the Secretary of State within the appropriate period,
- (b) must specify the period in respect of which it is made, and
- (c) is to be treated as an election to make payment by Method B.

(6) The appropriate period is—

- (a) where sub-paragraph (1) applies, the period beginning on 1st July 1989 and ending with 31st December 1989,
- (b) where sub-paragraphs (2) and (3) apply, 6 months from the date on which she became entitled to payment of retiring allowances, and
- (c) where sub-paragraph (4) applies, 3 months from the date of her death.

### PART III

#### COMMON PROVISIONS

13.—(1) This paragraph applies where—

- (a) an election is made under paragraph 2 or 3, or
- (b) an election is made under paragraph 9 to pay family benefit contributions by Method A.

(2) The rate at which family benefit contributions are to be paid, and any higher rate substituted by an election under sub-paragraph (4), must be an integral percentage, not in any case exceeding 9, of the person's salary.

(3) If he is paying additional contributions for past added years, or towards the provision of a pension otherwise than under these Regulations, sub-paragraph (2) has effect with the substitution for "9" of the number obtained by deducting from 9 the percentage rate of those contributions.

(4) The election may at any time be varied by an election to pay the family benefit contributions at a specified higher rate.

(5) An election under sub-paragraph (4) must be made by giving written notice to the Secretary of State, and has effect from the first day of the month following that in which the notice is received by him.

(6) The payment period begins on the first day of the month following that in which it is notified to the person by the Secretary of State.

(7) If after the start of the payment period there is an interval of more than 30 days during which the person is not employed in reckonable service or paying additional contributions for current added years—

- (a) the interval is not part of the payment period, but
- (b) the end of the payment period is postponed by the length of the interval.

(8) If after the start of the payment period the person becomes employed part-time in reckonable service, the length of the payment period is increased by so much of the period of part-time employment as does not count as reckonable service.

(9) If the original election is varied by one made under sub-paragraph (4) ("the further election"), the length of the payment period is reduced to  $A - \left(\frac{B}{C} \times D\right)$ , where—

A is what the length of the payment period would have been if the increased rate had been specified in the original election,

B is the rate specified in the original election,

C is the increased rate, and

D is the period from the start of the payment period to the effective date of the further election.

(10) The contributions—

(a) are payable from the start of the payment period,

(b) continue to be payable while the person is employed in reckonable service or paying additional contributions for current added years, and

(c) cease to be payable if he dies or becomes entitled to retiring allowances before the end of the payment period.

14.—(1) This paragraph—

(a) applies where family benefit contributions to which paragraph 13 applies cease to be payable before the end of the payment period, and

(b) has effect subject to paragraph 15.

(2) Where the person paying the contributions dies before attaining the age of 60, or (whether or not he later re-enters employment in reckonable service) becomes entitled to payment of retiring allowances by virtue of regulation 47—

(a) contributions are to be treated as having been paid in respect of the whole of the period in respect of which the election was made, but

(b) if part of the payment period falls after his 60th birthday, the actuarial equivalent of the contributions that would have been payable during that part is to be deducted from the appropriate terminal sum.

(3) Where the person dies, or becomes entitled to payment of retiring allowances, after attaining the age of 60—

(a) contributions are to be treated as having been paid in respect of the whole of the period in respect of which the election was made, but

(b) there is to be deducted from the appropriate terminal sum an amount of  $\left(A \times \frac{B}{100}\right) \times C$ ,

where—

A is the annual rate at which his salary was last payable,

B is the rate at which the contributions were last payable, and

C is the multiplier ascertained from, or if the remainder of the payment period is not an exact number of years by extrapolation from, Table 6 below.

TABLE 6

<i>Years in remainder of payment period</i>	<i>Multiplier</i>
1	0.990
2	1.961
3	2.913
4	3.846
5	4.760
6	5.657
7	6.536
8	7.398
9	8.244
10	9.072
11	9.884
12	10.681
13	11.461
14	12.227
15	12.977
16	13.713
17	14.434
18	15.141
19	15.835
20	16.514

- (4) Where the person becomes entitled to payment of allowances by virtue of regulation 46(2)(c)—
- (a) he may, by giving written notice to the Secretary of State within 3 months after the end of his employment in reckonable service, elect to pay a lump sum which is the actuarial equivalent of the contributions that would have been payable during the remainder of the payment period,
  - (b) if he does so elect, on payment of the lump sum contributions are to be treated as having been paid in respect of the whole of the period in respect of which the original election was made, and
  - (c) if he does not so elect, contributions are to be treated as having been paid in respect of  $D \times \frac{E}{F}$ ,  
where—
    - D is the period in respect of which the original election was made,
    - E is the period during which contributions were paid, and
    - F is the payment period.

15. Where—

- (a) a deduction has fallen to be made under paragraph 14(2) or (3) or an election has been made under paragraph 14(4), and
- (b) there is then a retrospective increase in the person's salary, and
- (c) the consequent recalculation of the amount of the deduction or lump sum and of the appropriate terminal sum results in a greater increase in the amount of the deduction or lump sum than in the terminal sum,

the person, or as the case may be his widow or widower or a beneficiary nominated under regulation 65, may notify the Secretary of State in writing that the amount of the deduction made is not to be increased."

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the Teachers' Superannuation (Scotland) Regulations 1977.

There are added a number of definitions of expressions used in later provisions concerning mainly amendments to the transfer value provisions (regulation 3).

Inserted in the 1977 Regulations are new regulations 4A and 4B. Regulation 4A reconciles the 1977 Regulations with section 10 of the Social Security Act 1986 (which makes void, *inter alia*, any rule to the effect that an earner must be a member of a particular occupational pension scheme), by conferring a right on a teacher to elect to cease to be, or not to become, subject to the 1977 Regulations as an employee in reckonable service. Regulation 4B allows any person who has made such an election to elect to become subject again to the 1977 Regulations (regulation 4).

Regulation 5 of the 1977 Regulations is amended as a consequence of regulation 4 of these Regulations to enable part-time teachers currently superannuable by virtue of an election they have made to elect to cease to be subject to the 1977 Regulations (regulation 5).

Regulation 6(3)(b) of the 1977 Regulations is revoked. This regulation permitted late entrants (age 55 and over) who entered teaching for the first time to elect not to be superannuable. This separate provision is no longer required as any teacher can so elect under new regulation 4A (regulation 6).

Regulations 30 to 38 and Schedule 4 to the 1977 Regulations are replaced by a new regulation and Schedule encompassing in one place extended and existing provisions relating to additional contributions which may be paid by teachers to increase reckonable service counting for family benefits. The effect of the new provisions is that married women are enabled to pay additional contributions in respect of service before 6th April 1988 which would not otherwise count towards widowers' benefits (regulations 7 and 25).

Regulation 39 of the 1977 Regulations is amended as follows:-

1. The general conditions for entitlement to a refund of contributions are amended consequentially upon amendments to regulation 12, ie refunds are available only where a person has less than 2 years' service.
2. Entitlement to a refund of contributions is extended to teachers who elect to cease to be subject to the 1977 Regulations.
3. By precluding a refund of contributions to a teacher with less than 2 years' service if part of that service was credited by virtue of a transfer value received from a personal pension scheme.
4. By providing that the increased rate of tax deductible from refunds of contributions, effective from 6th April 1988, will not be applied in respect of refunds paid after this date but for which application was lodged before this date.

The scope of regulation 45A of the 1977 Regulations, which provides entitlement to a guaranteed minimum pension for teachers and for teachers' widows, is extended to include teachers' widowers and, in addition, provides that all such pensions shall be increased in accordance with the requirements of section 37A of the Social Security Act 1975 (regulation 11).

Regulation 46 of the 1977 Regulations is amended by reducing from 5 years to 2 years, and from 10 years to 5 years, the periods of service giving rise, in differing circumstances, to an entitlement to benefits (immediate or deferred, according to age) on ceasing to be employed in reckonable service (regulation 12).

Regulation 51 of the 1977 Regulations is amended to clarify (a) that benefits payable early by reason of incapacity will be enhanced only if 5 or more years' service have been completed, and (b) how these provisions apply in relation to part-time teachers (regulation 14).

The period of service required for payment of a death gratuity is also reduced from 5 years to 2 years (regulation 15).

Provision is made for the abatement provisions to apply in the case of a retired teacher who, on being re-employed, does not become subject to the 1977 Regulations by virtue of an election made under new Regulation 4A (regulation 16).

Apart from the minor consequential amendments, regulation 64 of the 1977 Regulations is amended to clarify that, corresponding to the amendment introduced by regulation 14, the service counting for a spouse's pension will not be enhanced if the teacher's service amounts to less than 2 years and alters the provisions governing post-retirement marriages following the introduction of widowers' benefits (regulation 18).

Provision is made for the payment of pensions to widowers in respect of service accrued by a teacher after 5th April 1988. Such a pension is, however, limited to one half of the teacher's guaranteed minimum pension if there is in existence a nomination made by the teacher in respect of a person other than her spouse (regulation 19).

Regulation 65 of the 1977 Regulations is amended to take account of the introduction of automatic widowers' benefits so that from 6th April 1988 married women teachers can no longer make a nomination. In addition, the categories of persons who may be nominated are amended to prevent a child, however related to any teacher, from being nominated (regulation 20).

Regulation 72 of the 1977 Regulations is amended to extend to those teachers who elect to opt out of the Scheme a right to a transfer value. Further amendments allow transfer values to be paid to personal and self employed pension schemes and ensure that, following payment of a transfer value, the 1977 Regulations cease to apply to the accrued rights to which it relates (regulation 22).

Regulation 73 of the 1977 Regulations is amended to reflect that transfer values may be received from institutions managing personal pension schemes or self employed pension arrangements (regulation 23).

Following changes to legislation governing tax relief on pension contributions, the minimum contribution period for the purchase of past added years can be reduced from 5 years to one year for certain methods of payment. Schedule 2A to the 1977 Regulations is accordingly amended and new tables are supplied.

Schedule 7 to the 1977 Regulations is amended to take account of the introduction of widowers' benefits and the reduction in the period giving rise to entitlement of benefits. The reduction in the period giving rise to entitlement to benefits, however, has not been carried through to Tables 1 and 2, thus improving entitlement to short-term pensions (regulation 26).

Schedule 8 to the 1977 Regulations is amended to take account of the introduction of widowers' benefits and to make one improvement in relation to children's pensions when a widow's, widower's or adult nominated beneficiary's pension ceases for any reason (regulation 27).

Schedule 10 to the 1977 Regulations is extended to take account of personal pension schemes and self employed pension schemes which cannot accept that part of a transfer value which represents guaranteed minimum pension liability and, to provide for this, reduction of a transfer value where a teacher opts out of the Scheme (regulation 29).

Regulation 31 provides that certain provisions of these Regulations apply only where cessation of employment or death occurred after 6th April 1988.

These Regulations, apart from regulations 3(a), 7, 24 and 25, have retrospective effect as authorised by section 12 of the Superannuation Act 1972.

Regulation 32 permits a person to opt out if placed in a worse position by any of these Regulations.

The remaining regulations are consequential.

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