
STATUTORY INSTRUMENTS

1992 No. 280

The Teachers' Superannuation (Scotland) Regulations 1993

PART A

PRELIMINARY

Citation and commencement

A1.—(1) These Regulations may be cited as the Teachers' Superannuation (Scotland) Regulations 1992.

(2) These Regulations shall come into force on 31st March 1992.

Interpretation

A2.—(1) Schedule 1 to these Regulations contains a glossary of expressions and in these Regulations, unless the context otherwise requires, any expression for which there is an entry in the first column of that Schedule has the meaning given against it in the second column or is to be construed in accordance with directions given against it in that column.

(2) In these Regulations, unless the context otherwise requires—

- (a) any reference to a regulation, Part or Schedule identified by a letter or number or both (an “indicator”) is to be construed as a reference to the regulation, Part or Schedule, as the case may be, identified by that indicator in these Regulations, and any reference to a numbered paragraph in a regulation or a Schedule to these Regulations is to be construed as a reference to the paragraph bearing that number in that regulation or, as the case may be, that Schedule;
- (b) any reference to, or to things done or falling to be done under or for the purposes of, any provision of these Regulations is, if and so far as the nature of the reference permits, to be construed as including, in relation to circumstances or purposes in relation to which the corresponding provision in any Regulations revoked by these Regulations, or in previous provisions, has or had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision;
- (c) any reference to the purchase of added years is, in relation to previous provisions, to be construed as including a reference to the payment of contributions by a person in respect of a period during which that person was not in pensionable employment;
- (d) any reference to contributions and benefits payable in respect of a person is to be construed as including a reference to contributions paid by and benefits paid to that person; and
- (e) any reference to a transfer value paid or received is to be construed as including a reference to a transfer value which would have been paid or received but for arrangements made for the avoidance of payments between Ministers.

(3) Where these Regulations require anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

(4) For the purposes of these Regulations a person's pensionable employment ends with the last day of the employment or, as the case may be, the last day on which the employment was pensionable.

(5) Expressions used in these Regulations to which meanings are assigned by the Education (Scotland) Act 1980(1) shall, unless the context otherwise requires, have the same meanings in these Regulations as in that Act.

PART B

PENSIONABLE EMPLOYMENT

Full-time service

B1. Subject to regulations B5 to B7, a teacher is in pensionable employment where he is in full-time service in an employment specified in Schedule 2.

Part-time service

B2.—(1) Subject to paragraph (2) and regulations B5 to B7, a part-time teacher in an employment specified in Schedule 2 is in pensionable employment if he makes an election for the purposes of this regulation.

(2) A person is not in pensionable employment by virtue of paragraph (1) if he is, or is deemed to be, a pensionable employee within the meaning of the Local Government Superannuation (Scotland) Regulations 1987((2).

(3) Subject to paragraphs (4) and (5), an election for the purposes of this regulation may be made at any time by giving written notice to the Secretary of State and shall have effect—

- (a) if made before, or during, the first pay period after commencing employment in part-time service, from the date of commencement of that employment; and
- (b) in any other case, unless the Secretary of State specifies an earlier date, from the first day of the month following that in which he notifies the teacher of its receipt.

(4) An election under paragraph (3) shall apply to contracts for part-time service with the same employer entered into after the date of that election.

(5) Paragraph (3) shall not apply to a teacher who, at any time, has made an election under regulation B6.

Continuing employment

B3. Subject to regulations B5 to B7, a teacher who immediately before the date on which these Regulations come into force was in employment (“the first employment”) which was reckonable service by virtue of regulation 4(2)(c) or (d) of the 1977 Regulations(3) shall be treated as being in pensionable employment—

- (a) while in the first employment; and
- (b) while in employment which is in continuation of the first employment.

(1) 1980 c. 44.

(2) S.I. 1987/1850, amended by S.I. 1988/625, 1989/422, 1989/802, 1989/967, 1990/422, 1990/1284 and 1991/78.

(3) Regulation 4(2)(d) was inserted by S.I. 1988/1618.

Accepted school

B4.—(1) In pursuance of paragraph 2 of Schedule 2 (pensionable employment), subject to paragraph (6) and regulations B5 to B7, a teacher is in pensionable employment while employed in a school which is an accepted school for the purposes of this regulation.

(2) For the purposes of this regulation—

- (a) “accepted school ” means an independent school which—
 - (i) immediately before the date on which these Regulations come into force was accepted under Schedule 2 to the 1977 Regulations; or
 - (ii) being registered, and being the subject of a relevant application by its governing body or proprietor, is accepted by the Secretary of State as able to meet the requirements placed upon an employer by regulations G5 and G6 (payment of employers' contributions);
- (b) “registered ” means registered in the register of independent schools in accordance with Part V of the Education (Scotland) Act 1980(4);
- (c) “proprietor ” has the meaning assigned to it by section 135 of the Education (Scotland) Act 1980 and includes a person who, by reason of holding any office or having any interest in a company by which the school is conducted, is substantially in the position of a proprietor.

(3) Notwithstanding the provisions of paragraph (2) the Secretary of State shall have power in such case as he thinks appropriate to accept under the provisions of this regulation an independent school which is for the time being only provisionally registered.

(4) The date on which an independent school becomes an accepted school under paragraph 2(a) (ii) shall, unless an alternative date is agreed by the Secretary of State and the governing body or proprietor thereof, be the 1st September preceding acceptance of the application.

(5) An accepted school shall cease to be an accepted school on such a day as is specified in a notice in writing sent by the Secretary of State to the governing body or proprietor of the school on or after any of the following events—

- (a) the receipt by the Secretary of State of an application by the governing body or proprietor that the school shall cease to be an accepted school;
 - (b) the school ceasing to be registered;
 - (c) any default by the governing body or proprietor in the payment of contributions;
 - (d) failure by the governing body or proprietor to comply within 1 month with any requirement of the Secretary of State to make any report or return, give any information or produce any document, under regulation H3;
 - (e) failure by the governing body or proprietor to comply with any other provision of the Regulations relating to the employment of teachers in reckonable service;
 - (f) the closure of the school.
- (6) The service of a teacher in an accepted school shall not be pensionable employment if—
- (a) the teacher is a proprietor thereof; or
 - (b) paragraph (2)(a)(i) applies to the school and the teacher’s employment therein immediately before the date on which these Regulations come into force was not reckonable service.

Exclusion from pensionable employment

B5.—(1) A teacher is not in pensionable employment unless aged at least 16 and under 70 and—

(4) 1980 c. 44.

- (a) entitled to be paid his salary in full;
 - (b) on sick leave and entitled to be paid not less than half his salary; or
 - (c) on maternity leave and entitled to receive statutory maternity pay (whether as a constituent part of her income or as her sole income).
- (2) A person is not in pensionable employment while he is in an employment which immediately before the date on which these Regulations come into force was, by virtue of regulation 6(1)(a) of the 1977 Regulations (employments treated as not being reckonable service by previous provisions), not pensionable employment.
- (3) Subject to paragraph (4), a person who—
- (a) immediately before the date on which these Regulations come into force was in; or
 - (b) not more than 12 months before that date had ceased to hold,
- an employment which by virtue of regulation 6(2) of the 1977 Regulations (employments superannuable under section 7 or 8 of the Superannuation Act 1972) was not pensionable employment and who has made no election under regulation 6(2)(c) of the 1977 Regulations, is not in pensionable employment.
- (4) Within 3 months after the start of an employment to which paragraph (2) applies the teacher may, by giving written notice to the Secretary of State and to the appropriate administering authority within the meaning of the Local Government Superannuation (Scotland) Regulations 1987, elect that paragraph (3) is to cease to apply.

Membership

- B6.**—(1) A teacher who—
- (a) is employed in pensionable employment; 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 pensionable employment shall, subject to regulation B7 below, cease to be pensionable employment, and employment where this paragraph applies is in these Regulations referred to as “excluded employment”.
- (3) Where paragraph (1)(a) applies, an election under this regulation has effect—
- (a) if the notice is received by the Secretary of State during the first pay period after commencing pensionable employment, from the date on which the teacher became so employed; and
 - (b) in any other case, from the first day of the pay period following that in which the notice was received by the Secretary of State.
- (4) Where paragraph (1)(b) applies, an election under this regulation, if the notice is received by the Secretary of State before or during the first pay period after commencing pensionable employment, has effect from the date on which the teacher became so employed.
- (5) An election made under regulation 4A(5) of, or paragraph 6(c) of Schedule 2 to, the 1977 Regulations is to be treated as having been made under this regulation.

(5) Regulation 4A was inserted by [S.I. 1989/666](#).

Resumption of membership

B7.—(1) Subject to paragraphs (5) and (6), a teacher who has made an election under regulation B6, who has since been in excluded employment and who—

- (a) is in excluded employment; or
- (b) is not in, but expects to enter, employment which is excluded employment by virtue of an election previously made under regulation B6,

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 B6, any excluded employment on or after that date is pensionable employment.

(3) Where paragraph (1)(a) applies, an election under this regulation has effect from the first day of the pay period following that in which the notice was received by the Secretary of State.

(4) Where paragraph (1)(b) applies, an election under this regulation has effect—

- (a) if the notice is received by the Secretary of State before or during the first pay period after commencing employment, from the date on which the teacher became so employed; and
- (b) in any other case, from the first day of the pay period following that in which the notice was received by the Secretary of State.

(5) If after making an election under this regulation a teacher makes a further election under regulation B6 above, he may make a further election under this regulation only if, since the further election was made under regulation B6, there has been a period of not less than 5 years during which the teacher was not in any excluded employment.

(6) 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 (5) is less than 5 years; or
- (b) refuse to accept an election where the teacher is on sick leave.

(7) An election made under regulation 4B of the 1977 Regulations⁽⁶⁾ is to be treated as having been made under this regulation.

PART C

TEACHERS' CONTRIBUTIONS

Salary on which contributions are payable

C1.—(1) Subject to paragraphs (2) to (13), a teacher's contributable salary shall, for the purpose of these Regulations, be the aggregate of the amounts payable by his employer in respect of his pensionable employment—

- (a) whether by way of salary or in kind; and
- (b) in satisfaction of any statutory liability arising out of sickness leave or maternity leave.

(2) The following payments or allowances shall be excluded from being treated as part of the teacher's contributable salary:—

- (a) payments in respect of overtime, special services or extra duties;
- (b) any emoluments receivable from or out of an educational endowment or bequest;

(6) Regulation 4B was inserted by [S.I. 1989/666](#).

- (c) any additional allowance paid to a teacher serving outside the British Islands under arrangements approved by the Secretary of State for the interchange of teachers;
 - (d) payments by way of travelling or expense allowances;
 - (e) any sums chargeable to tax under section 148 of the Taxes Act.
- (3) The Secretary of State may make a direction, in such cases as he thinks appropriate, disapplying any exclusion under paragraph (2) from the salary of a teacher.
- (4) In determining the contributable salary to which a teacher is entitled for the purposes of abatement of annual pension under regulation E15, the following payments to him shall be disregarded:—
- (a) any payments in respect of employment in connection with education which, while employed in pensionable employment or comparable British service, the teacher undertook in addition to such service and which he continues after ceasing such service, not exceeding, when expressed as an annual rate, the average annual rate of such payments for the last 3 years of employment in pensionable employment or comparable British service;
 - (b) any payments in respect of employment in connection with education outside the British Islands, being employment in which, in the opinion of the Secretary of State, it is expedient to facilitate the employment of teachers from Scotland; and
 - (c) any fees in respect of employment for the purposes of the Scottish Certificate of Education or the General Certificate of Secondary Education.
- (5) Subject to paragraphs (6) and (7), in relation to a teacher who enters pensionable employment on or after 1st June 1989, where his salary, calculated in terms of paragraph (1), exceeds the permitted maximum in terms of section 590C of the Taxes Act(7), the excess over that amount shall not be treated as contributable salary for the purpose of these Regulations.
- (6) Paragraph (5) shall not apply to a teacher who was in pensionable employment before 1st June 1989 and who resumes pensionable employment following—
- (a) an absence on maternity leave in respect of which she enjoyed a right to return to work as specified in regulation C10(4)(a);
 - (b) a period of secondment or additional period of absence necessarily attributable to that secondment; or
 - (c) in any other case, a break in teaching employment not exceeding one year.
- (7) Paragraph (5) shall not apply to a teacher who was in comparable British service before 1st June 1989 who enters pensionable employment, provided there has not been a period of more than one year between cessation of employment in comparable British service and entering pensionable employment.
- (8) A teacher who continues in full-time pensionable employment but whose contributable salary is reduced, otherwise than by reason of sickness leave or maternity leave, may elect that it is to be treated as having continued at the rate applicable immediately before the reduction “the notional rate”).
- (9) An election for the purposes of paragraph (8)—
- (a) must be made by giving written notice to the Secretary of State within 6 months after the reduction;
 - (b) has effect from the first day of the month following that in which the notice was received; and
 - (c) subject to paragraph (11), continues to have effect until a relevant event occurs.
- (10) The relevant events are—

(7) Section 590C was inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraph 4.

- (a) the actual rate exceeding the notional rate;
- (b) the teacher entering part-time pensionable employment; and
- (c) unless the teacher elects to pay additional contributions under regulation C8, his ceasing to be in pensionable employment.

(11) An election made for the purposes of paragraph (8) may be cancelled by giving written notice to the Secretary of State at any time.

(12) Notice of cancellation—

- (a) has effect from the first day of the month following that in which it was received; and
- (b) is irrevocable.

(13) If while an election made for the purposes of paragraph (8) has effect there is any further reduction during a period of sick leave or maternity leave, the notional rate is, during that period, to be treated as having been reduced in the same proportion as the actual rate.

Ordinary contributions

C2.—(1) Subject to paragraph (2), a teacher who is in pensionable employment is to pay contributions of 6 per cent of contributable salary for the time being.

(2) No contributions are to be paid by a teacher in respect of any reckonable service beyond a total of 45 years.

Additional contributions to purchase past added years

C3.—(1) This regulation applies to a teacher who—

- (a) except where paragraph (5) applies, is in pensionable employment; and
- (b) first became employed in pensionable employment, or has been credited with reckonable service on the receipt of a transfer value in respect of comparable British service that began, before he attained the age of 55; and
- (c) has not become entitled to payment of retiring allowances under regulation E5(1)(a) to (d).

(2) Subject to paragraphs (3) to (12), a teacher to whom this regulation applies may elect to pay additional contributions in accordance with—

- (a) Part I of Schedule 4 (“Method A ”);
 - (b) Part II of Schedule 4 (“Method B ”);
 - (c) Part III of Schedule 4 (“Method C ”); or
 - (d) where paragraph (5) applies, Part IV of Schedule 4 (“Method D ”),
- in order to become entitled to count an additional period (“the past period ”) as reckonable service.

(3) Except where paragraph (5) applies, or the teacher’s pensionable employment is part-time, payment may be made by Method A, B or C.

(4) Where the teacher’s pensionable employment is part-time, payment may only be made by Method B.

(5) This paragraph applies where—

- (a) the election is a further election made by a teacher whose last pensionable employment was full-time; and
- (b) the previous election was one made after 30th October 1983 to make payment by Method A and the notice of it contained a statement of the kind mentioned in paragraph (12)(d)(ii); and

- (c) the teacher has not elected under paragraph 4 of Schedule 4 to shorten the period during which additional contributions were to be paid so that it ends before his 69th birthday; and
 - (d) when notice of the further election is given the teacher has applied for payment of retiring allowances but has not been paid a retirement lump sum.
- (6) The past period must not exceed the maximum calculated in accordance with Schedule 3, and—
- (a) must have begun after the teacher attained the age of 20;
 - (b) must have ended—
 - (i) before the teacher attained the age of 60;
 - (ii) before the date of the election; and
 - (iii) if the teacher has become entitled to payment of retiring allowances by virtue of regulation E5(1)(f) (redundancy, etc.), before the relevant termination of employment;
 - (c) must be one during which the teacher was not in full-time pensionable employment, unless—
 - (i) contributions in respect of the period have been repaid after 31st May 1973; or
 - (ii) the right to count reckonable service in respect of it has been extinguished by payment of a transfer value;
 - (d) if payment is to be made by Method A, must satisfy paragraph 2 of Schedule 4;
 - (e) if payment is to be made by Method B and the election is a further election, must have begun after the date of the previous election;
 - (f) if payment is to be made by Method C, must—
 - (i) satisfy paragraph 13 of Schedule 4; and
 - (ii) if the election is a further election, have begun after the date of the previous election;
 - (g) unless—
 - (i) payment is to be made by Method B and notice of the election is given no earlier than the date of applying for payment of retiring allowances; or
 - (ii) payment is to be made by Method D,
 - must be a period of not less than 30 days; and
 - (h) if payment is to be made by Method D, must have ended before the date of the previous election.
- (7) If the teacher is already entitled to count any reckonable service in respect of the past period, that period is for the purposes of payment under this regulation and those of regulation D1 (reckonable service) reduced by the length of that service.
- (8) The period during which additional contributions are to be paid (“the contribution period”) must—
- (a) where payment is to be made by Method A, satisfy paragraph 2 of Schedule 4; and
 - (b) where payment is to be made by Method C, satisfy paragraph 13 of Schedule 4.
- (9) Subject to paragraphs (10) and (11), an election under this regulation may be made at any time.
- (10) A further election to make payment by Method B or C, other than an election by a teacher in part-time pensionable employment to make payment by Method B, must be made within 6 months after the start of the teacher’s latest pensionable employment.
- (11) A teacher may not simultaneously make different elections under this regulation, except that an election to make payment by Method A or C may be made at the same time as an election to make payment by Method B in respect of a different past period.

(12) An election under this regulation must be made by giving written notice to the Secretary of State, which—

- (a) is to specify the past period;
- (b) is to specify the method by which payment is to be made;
- (c) where payment is to be made by Method A or C, is to specify the length of the contribution period; and
- (d) where payment is to be made by Method A—
 - (i) is to contain a declaration that the teacher has no reason to believe that his health may prevent him from continuing in pensionable employment until payment has been completed, and
 - (ii) where the contribution period is such that payment cannot be completed until the teacher has attained the age of 69 and he wishes to reserve the right to make a further election to make payment by Method D, is to contain a statement to that effect.

(13) Subject to paragraph 4 of Schedule 4 (shortening of contribution period where payment to be made by Method A), an election becomes irrevocable one month after the date on which the Secretary of State notifies the teacher in writing that it has been accepted.

(14) Where payment is to be made by Method A and—

- (a) within 12 months after the date of the election the teacher becomes incapacitated; and
 - (b) the declaration required by paragraph (12)(d)(i) was not made in good faith,
- the election is to be treated as not having been made and any additional contributions paid are to be refunded.

(15) In this regulation “further election ” means an election made after 30th October 1983 which was not the teacher’s first election, and “previous election ” means the last election before the one being made.

Additional contributions to purchase past added years in the case of a deceased teacher

C4.—(1) This regulation applies in the case of a teacher—

- (a) who dies;
- (b) who, had he on the date of death instead ceased to hold his employment, would—
 - (i) have become entitled under regulation E5 to payment of retiring allowances; and
 - (ii) on applying for them have become entitled under regulation C3 to elect to pay additional contributions by Method D; and
- (c) in respect of whom another person (“the pensioner ”) is entitled under regulation E25 to a long-term pension.

(2) Where this regulation applies the pensioner, or in the case of a child a person acting on the pensioner’s behalf, may by giving written notice to the Secretary of State within 3 months after the death make any election which, on the hypothesis stated in paragraph (1)(b), the deceased teacher could have made under regulation C3.

(3) Subject to paragraph (4), an election under this regulation has effect as if it had been made under regulation C3 by the deceased teacher.

(4) The additional contributions—

- (a) are to be calculated under paragraph 16(1) of Schedule 4 even if the deceased teacher had attained the age of 60, and
- (b) except to the extent that they are, with the consent of any person entitled to it, met out of a terminal sum, are payable by the pensioner.

Additional contributions to purchase past added years under earlier provisions

C5.—(1) Part I of Schedule 5 has effect where immediately before the date on which these Regulations come into force additional contributions remained to be paid by virtue of regulations 22 to 25 of the 1977 Regulations (elections made before 31st October 1983).

(2) Part II of Schedule 5 has effect where immediately before the date on which these Regulations come into force additional contributions remained to be paid by virtue of regulation 26 of the 1977 Regulations (payments commenced before 1973).

Reduction of past added years on account of war service

C6.—(1) This regulation applies where—

- (a) an election has been made under regulation C3 or C4; and
- (b) the teacher by or in respect of whom it was made subsequently becomes entitled to count as reckonable service, by virtue of regulation D5 or D6, a period related to war service; and
- (c) apart from this regulation some of his reckonable service (“the excess period”) consequently would, or would if he continued in pensionable employment until his 60th birthday, be left out of account, by reason of regulation E30(2) (limit on effective service), for the purpose of calculating benefits.

(2) Where this regulation applies the period in respect of which the election mentioned in paragraph (1)(a) was made is to be treated as reduced by the excess period.

(3) Where the additional contributions already paid exceed those required for the reduced period, the excess is to be refunded.

Additional contributions in respect of war service

C7.—(1) This regulation applies to a teacher who became entitled by virtue of regulations 49(2) (a) and 68 of the 1977 Regulations to count as reckonable service a period related to war service (“the war service period”).

(2) Subject to paragraph (6), there is to be paid by or in respect of a teacher to whom this regulation applies, by way of deduction from the appropriate terminal sum, an additional contribution of A + B, where—

A is 3.75 per cent of the salary notionally received during the teacher’s war service, and

B is interest on A at 3.5 per cent per annum, compounded with yearly rests, from 1st July 1950 to the relevant date.

(3) The salary notionally received during the teacher’s war service is £200 per annum in the case of a man and £175 per annum in the case of a woman.

(4) The relevant date is—

- (a) if a transfer value has become payable in respect of the teacher by virtue of regulation F1, the date on which he became subject to the receiving scheme; and
- (b) in any other case, the date on which the terminal sum is paid.

(5) If the additional contribution exceeds the terminal sum, the excess is to be paid in such manner as may be agreed.

(6) If—

- (a) the counting of the war service period does not increase the retirement benefits payable; and
 - (b) no election is made under paragraph (8),
- no additional contribution is payable under paragraph (2).

(7) This paragraph applies where the whole of the teacher's other reckonable service would, in the event of his death, count in the calculation under regulation E26 of a spouse's or nominated beneficiary's pension ("the family pension").

(8) Where paragraph (7) applies the teacher may elect that there is to be paid, by way of a further deduction from the appropriate terminal sum, an additional contribution in respect of war service.

(9) The amount of the additional contribution is the actuarial cost of the increase in the family pension that would result from the war service period's counting under regulation E26(4)(c).

(10) An election under paragraph (8) must be made by giving written notice to the Secretary of State before the appropriate terminal sum is paid.

(11) If a teacher who could have made an election under paragraph (8) dies without having made it, the election may be made by the nominated beneficiary or surviving spouse before the appropriate terminal sum has been paid.

Additional contributions to purchase current added years

C8.—(1) Subject to paragraphs (11) to (13), this regulation applies to a teacher who—

- (a) before attaining the age of 60 has ceased to be in pensionable employment, otherwise than by virtue of an election under regulation B6 (opting out); and
- (b) was not then incapacitated; and
- (c) did not then become entitled to payment of retiring allowances; and
- (d) has not become a member of another occupational pension scheme.

(2) Subject to paragraphs (3), (4) and (10), a teacher to whom this regulation applies may elect to pay additional contributions in order to become entitled to count as reckonable service a period ("the period") beginning on the day after the cessation of the pensionable employment, or where paragraph (4)(a) applies on the day after the last day of the earlier period.

(3) The period—

- (a) must end before the teacher's 60th birthday; and
- (b) must not in any case exceed the maximum calculated in accordance with Schedule 3; and
- (c) if the teacher has become employed—
 - (i) as a teacher in any school outside the British Islands in which, in the opinion of the Secretary of State, it is expedient to facilitate the employment of teachers from Scotland; or
 - (ii) in an educational service outside the British Islands in employment which to a substantial extent involves the control or supervision of teachers in such schools, must not exceed 6 years; and
- (d) in any case to which paragraph (c) does not apply, must not exceed 3 years.

(4) If the teacher has paid additional contributions under this regulation for an earlier period and—

- (a) has not since the end of that period been in pensionable employment; or
- (b) has since been in pensionable employment but for less than 12 months, the earlier period is to be deducted from the maximum allowed by paragraph (3).

(5) If before the end of the period the teacher—

- (a) becomes entitled to payment of retiring allowances; or
- (b) becomes a member of another occupational pension scheme; or
- (c) dies,

the period is to be treated as having ended on the day on which the relevant event occurred; and if before the end of the period the teacher fails to pay an additional contribution, or a late payment is not accepted under paragraph (9), it is to be treated as having ended on the day up to which contributions have been paid.

(6) An additional contribution is payable for each financial year and is a percentage of the notional salary for so much of the period as falls within that year.

(7) The notional salary is what the teacher's pensionable salary would have been if pensionable employment had not ceased and the teacher had continued to be employed in the same post and on the same terms; and the percentage is (A+B), where A is the percentage specified under regulation G4(3) (employee's contributions) and B is any percentage specified under regulation G4(7) and (8) (employer's contributions).

(8) The contribution for a financial year is to be paid directly to the Secretary of State—

- (a) where the period has not ended during the financial year, within 3 weeks after the end of the financial year; and
- (b) in any other case, within 6 weeks after the end of the period or the date of a written notification by the Secretary of State that payment is due, whichever is the later.

(9) A late payment of a contribution may for special reasons be accepted by the Secretary of State; but if it is accepted the teacher is to pay interest on the amount of the contribution at 4 per cent per annum, compounded with yearly rests, from the due date of payment to the date of payment.

(10) An election under this regulation must be made by giving written notice to the Secretary of State, which must specify the period and must be given—

- (a) if paragraph (3)(c) applies, within 6 months; and
- (b) in any other case, within 3 months,

after the cessation of the teacher's pensionable employment or, if later, the end of a previous period for which he has paid additional contributions under this regulation.

(11) For the purposes only of this regulation a teacher remains in pensionable employment while absent from duty during and in consequence of a trade dispute.

(12) Paragraph (11) applies—

- (a) even if the teacher was not participating in or financing or otherwise directly interested in the trade dispute; and
- (b) even if the teacher's employer was not a party to the trade dispute.

(13) In this regulation "trade dispute" has the meaning given by section 29 of the Trade Union and Labour Relations Act 1974(8).

Additional contributions for family benefits

C9.—(1) Parts I and III of Schedule 6 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 6 have effect for enabling married women to pay family benefit contributions in respect of reckonable service before 6th April 1988.

(8) 1974 c. 52; section 29 was amended by the Trade Union and Labour Relations (Amendment) Act 1976 (c. 7), section 1(d), the Criminal Law Act 1977 (c. 45), Schedule 13, and the Employment Act 1982 (c. 46), section 18.

Return of contributions

C10.—(1) Subject to paragraph (3), this regulation applies where a teacher has ceased to be in pensionable employment and—

- (a) if he ceased to be in pensionable employment by virtue of an election under regulation B6, he had not completed one or more periods of the kinds described in Part I of Schedule 8 amounting to 2 years or more; and
- (b) in any other case, he is not qualified for retiring allowances; and
- (c) no transfer value under regulation F1 has since been paid or become payable in respect of the teacher; and
- (d) he did not within the relevant period re-enter pensionable employment; and
- (e) the relevant period is not a period, or part of a period, for which the teacher has elected to pay additional contributions under regulation C8 (current added years).

(2) The relevant period is—

- (a) if he has ceased to be ordinarily resident within the area comprising the British Islands and the Republic of Ireland, the period of one month; and
- (b) in any other case, the period of 3 months,
beginning when the teacher ceased to be in pensionable employment.

(3) This regulation shall not apply if part of the teacher's reckonable service is attributable to a transfer value paid in respect of him to the Secretary of State by the trustees or managers of a personal pension scheme, notwithstanding that the teacher has less than 2 years' service.

(4) For the purposes of paragraph (1) a woman who ceased to be in pensionable employment wholly or partly because of pregnancy or confinement is to be treated—

- (a) as having remained in such employment while she enjoyed the right to return to work conferred by sections 45 and 47 of the Employment Protection (Consolidation) Act 1978⁽⁹⁾; and
- (b) if she has exercised that right, as not having ceased to be in pensionable employment.

(5) Where this regulation applies the person is entitled to have returned the balance of his contributions, calculated in accordance with regulation C11.

(6) The entitlement takes effect at the end of the relevant period, or on the teacher's 70th birthday if earlier.

Calculation for the purposes of regulation C10

C11.—(1) The balance of contributions is to be calculated as at the date of the calculation, or the teacher's 70th birthday if earlier ("the calculation date").

(2) The balance is $(A-B)-C$, where—

- A is the total of the amounts specified in paragraph (3),
- B is the total of the deductions specified in paragraph (4); and
- C is the amount of the tax chargeable on $(A-B)$ under section 598 of the Taxes Act.

(3) The amounts are those of—

- (a) all contributions paid, under regulations C2, C3, C5, C8 and C9, except—
 - (i) any treated for the purposes of regulation G2 as employer's contributions; and

⁽⁹⁾ 1978 c. 44; section 45 was amended by the Social Security Act 1989 (c. 24), Schedule 5, paragraph 15; section 47 was amended by the Employment Act 1980 (c. 42), section 11(3).

- (ii) any paid in respect of a period of employment for which an incapacity gratuity under regulation E17 has been received; and
- (b) contributions paid in respect of any comparable British service in respect of which the teacher is entitled to count reckonable service by virtue of the receipt of a transfer value; and
- (c) if the teacher was entitled to count any reckonable service by virtue of the receipt of a transfer value in respect of an employment that was not comparable British service, either—
 - (i) any payment by way of repayment of contributions, and interest, that he would otherwise have been entitled to receive under the rules of the superannuation scheme to which he was subject in the employment; or
 - (ii) if that scheme made no provision for the repayment of contributions, the contributions he paid under it in respect of the employment; and
- (d) interest to the calculation date, at 3 per cent per annum, compounded with yearly rests—
 - (i) on the contributions mentioned in sub-paragraphs (a) and (b), from the first day of the financial year following that in which they were paid; and
 - (ii) where sub-paragraph (c) applies, from the first day of the financial year following that in which the transfer value was paid.
- (4) The deductions are—
 - (a) the amount of any previous repayment of contributions;
 - (b) if the Secretary of State has made a payment in lieu of contributions or the person is entitled to equivalent pension benefits, half the amount of the payment in lieu of contributions that was, or as the case may be would otherwise have been, made; and
 - (c) if the Secretary of State has paid a contributions equivalent premium, the amount recoverable by him under section 47 of the Pensions Act(10).

Return of certain contributions paid for family benefits

C12.—(1) This paragraph applies where a member who has made no election under paragraph 3 of Schedule 6 (election to pay additional contributions)—

- (a) becomes entitled under regulation C10 to the return of the balance of his contributions; or
- (b) becomes entitled to have a transfer value paid under regulation F 1, unless by giving written notice to the Secretary of State he elects that this regulation is not to apply; or
- (c) becomes entitled to payment of retiring allowances, unless on his death family benefits would become payable.

(2) Where paragraph (1) applies the member is entitled to be repaid an amount calculated in accordance with paragraphs (3) to (5).

(3) Where no family benefit would have been payable if the member had died before 1st April 1972, the amount includes the whole of the member's normal contributions and any additional contributions.

(4) Where paragraph (3) does not apply, the amount includes—

- (a) half the normal contributions paid in respect of any period during which family benefits would have been payable in the event of the member's death; and
- (b) the whole of the normal contributions paid in respect of any other period; and

(10) Section 47 was amended by the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 22(14) and by the Social Security Act 1985 (c. 53), Schedule 5, paragraphs 29 and 30.

- (c) the whole of any additional contributions.
- (5) The remainder of the amount consists of interest at 3 per cent per annum, compounded with yearly rests, from the first day of the financial year following that in which the contributions were paid to—
 - (a) the date of the calculation; or
 - (b) the member's 70th birthday; or
 - (c) the date of the member's death,whichever is the earliest.
- (6) There is to be deducted from the amount the tax chargeable on it under section 598 of the Taxes Act.
- (7) Where a member who has made no election under paragraph 3 of Schedule 6 dies and—
 - (a) he was entitled under regulation C10 to be repaid the balance of his contributions; or
 - (b) a death gratuity is payable under regulation E19 and no family benefit other than a children's pension is payable,the member's personal representatives are entitled to be paid an amount calculated in accordance with paragraphs (3) to (5) but with the interest component calculated to the date of the member's death.

Repayment of returned contributions

- C13.**—(1) A teacher to whom contributions were returned before 1st June 1973—
- (a) who is in pensionable employment; or
 - (b) who is in comparable British service and in respect of whom no transfer value has been paid since the end of his last pensionable employment,
- may at any time, by giving written notice to the Secretary of State, elect to repay the contributions, with interest, to him.
- (2) Interest is payable at the rate of 3.5 per cent per annum from the date on which the contributions were returned to the date on which their repayment is completed, and—
- (a) where the repayment is made by a single payment, is payable on the full amount of the contributions and is compounded with yearly rests; and
 - (b) where the repayment is made by instalments, is payable on the balance for the time being outstanding and is compounded with yearly rests on 31st March.
- (3) While a teacher is in pensionable employment, payments under this regulation shall be made in instalments of equal amounts and are, subject to paragraph (4), payable—
- (a) at equal intervals, of not more than 6 months; and
 - (b) for a whole number of years not exceeding 5 and ending before his 60th birthday.
- (4) The annual amount of instalments paid under paragraph (3) is not to exceed (A–B), where—
- A is 9 per cent of the annual rate of the teacher's contributable salary at the date on which notice of the election is received, and
- B is the excess over 6 per cent of that rate of any amounts to be deducted under regulation C14.
- (5) If a teacher has commenced to pay instalments in accordance with this regulation and before they have all been repaid—
- (a) he becomes entitled to payment of retiring allowances; or
 - (b) a death gratuity becomes payable in respect of him,

the balance outstanding, less any interest previously calculated but which relates to a future period of repayment, is to be deducted from the appropriate terminal sum and the repayment of contributions is to be treated as having been completed.

(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 pensionable employment before completing payment, he shall make a single payment of the balance outstanding, less any interest previously calculated but which relates to a future period of repayment.

Deduction, payment and recovery of contributions

C14. –

(1) The employer of a teacher in pensionable employment is to deduct from the teacher's salary each month–

- (a) the contributions payable under regulation C2(1) (ordinary contributions);
- (b) any additional contributions payable in accordance with Parts I or III of Schedule 4 as a result of an election under regulation C3 (additional contributions for past added years);
- (c) any additional contributions payable by virtue of regulation C5 (earlier provisions) or C9 (family benefits); and
- (d) any instalments payable under regulation C14(3) (interest payments),

and any amount not so deducted in any month is to be deducted from the employee's salary no later than 30th April next following the end of the financial year in which it ought to have been deducted.

(2) If and so far as deductions are not made under paragraph (1), any sum remaining due is to be paid by the employee to the Secretary of State on receipt of a written demand specifying the sum.

(3) If the sum is not paid within 6 weeks after the date of the demand, interest is payable on it at 4 per cent per annum, compounded with yearly rests, from the expiry of the 6 weeks to the date of payment.

(4) Without prejudice to any other means of recovery, any sum due to the Secretary of State under paragraph (2) or (3) may be recovered by deducting it from any benefits payable under Part E.

(5) Amounts due from a person under this Part which are not deductible under paragraph (1) are to be paid by the person to the Secretary of State.

(6) If any amount to which paragraph (5) applies, except one due under regulation C8 or C13, is not paid within 6 months after the end of the period to which it relates, but remains payable, interest is payable on it at 4 per cent per annum, compounded with yearly rests, from the expiry of the 6 months to the date of payment.

PART D

RECKONABLE SERVICE

Reckonable service generally

D1.—(1) Subject to regulation D2, a teacher is entitled to count as reckonable service any period–

- (a) subject to paragraph (3), during which he was employed in pensionable employment;
- (b) counting as reckonable service by virtue of regulations D3 to D6 or regulation F3 (receipt of transfer values); and

- (c) which does not count by virtue of sub-paragraph (a) or (b) but which immediately before the date on which these Regulations come into force counted as reckonable service under regulation 4(1) of the 1977 Regulations.
- (2) In aggregating the total reckonable service of any teacher—
 - (a) the amount in any financial year shall not exceed 365 days;
 - (b) all periods of reckonable service shall be aggregated and where 2 or more periods total 365 days or more each period of 365 days shall be reckoned as 1 year, service on the 29th February in a leap year being disregarded; and
 - (c) a half or greater fraction of a day shall be reckoned as a day and a smaller fraction shall be disregarded.
- (3) Where during a financial year a teacher has spent one or more periods in part-time service each such period counts as

$$365 \times \frac{A}{B} \text{ days of reckonable service,}$$

where—

A is the teacher's contributable salary for the period, and

B is what the teacher's contributable salary for the whole of the financial year would have been if the employment had been full time and had continued throughout the year.

- (4) For the purposes of paragraph (3)—
 - (a) any reduction of contributable salary during a period of absence from pensionable employment on sick leave or maternity leave shall be disregarded; and
 - (b) a period of part-time employment ends, and another such period begins, when any change occurs in the rate of the teacher's contributable salary.

Exclusion from reckonable service

D2. The following periods do not count as reckonable service:—

- (a) any period in respect of which contributions made by the teacher have been returned and not repaid to the Secretary of State in pursuance of regulation C13;
- (b) any period in respect of which contributions have not been paid by the teacher unless the Secretary of State directs otherwise;
- (c) any period in respect of which a transfer value has been paid under regulation F1; and
- (d) any period relating to war service which would count as reckonable service under regulations D5 or D6 where the period is counted by virtue of regulation 4(1)(d) or regulation 68 of the 1977 Regulations.

Past added years for which additional contributions have been paid

D3.—(1) A teacher—

- (a) who has paid additional contributions for a past period in accordance with Part II or Part IV of Schedule 4; or
- (b) who has completed payment of additional contributions in accordance with Part I or Part III of Schedule 4, or with Schedule 5,

is entitled to count the past period as reckonable service.

(2) A teacher who has begun to pay additional contributions in accordance with Part I or Part III of Schedule 4, or has continued to pay them in accordance with Schedule 5, but who has not completed payment is entitled to count as reckonable service a period calculated in accordance with Schedule 7.

Current added years for which additional contributions have been paid

D4. A teacher who has paid additional contributions for a period in accordance with regulation C8 is entitled to count as reckonable service the period in respect of which they were paid.

War service reckonable on receipt of additional transfer value

D5.—(1) This regulation applies to a teacher—

- (a) who at the material time was entitled to count reckonable service for the purposes of the 1977 Regulations; and
- (b) who ceased to be in service or employment in which he was subject to a public service pension scheme at a time when he could not reckon service for the purposes of the scheme by virtue of his war service but could have done so had he continued in that service or employment; and
- (c) in respect of whom a transfer value became payable to the Secretary of State before 1st April 1978 which took account of that service or employment; and
- (d) who by virtue of that transfer value was on 1st April 1978 entitled to count reckonable service for the purposes of the 1977 Regulations; and
- (e) in respect of whom an additional transfer value has been accepted.

(2) “Public service pension scheme” means any occupational pension scheme—

- (a) which cannot come into force, or be amended, without the scheme or the amendment being approved by a Minister of the Crown or government department; and
- (b) which includes provision for war service of the members of the scheme in respect of a period before becoming entitled to participate in the scheme to reckon as service in respect of which benefits are payable in the scheme; and
- (c) which provides for the making and receipt of transfer payments in respect of that war service.

(3) The material time is 1st April 1978, unless the teacher died before that date but after 31st August 1974 when it is immediately before the teacher’s death.

(4) A teacher to whom this regulation applies shall be entitled to count as reckonable service a period of such reckonable service as would enable the Secretary of State to pay, by reference to a teacher’s age and salary at 1st April 1978, a transfer value calculated in accordance with regulation F2, equivalent to the amount of the additional transfer value received.

(5) For the purposes of this regulation any sum representing the compound interest that may be paid on a transfer value shall be disregarded.

(6) No provision relating to the reduction, by way of national insurance modification, of an annual pension has any application in relation to reckonable service which a teacher is entitled to count under this regulation.

War service reckonable without receipt of a transfer value

D6.—(1) This regulation applies to a teacher to whom regulation D5(1) applies.

(2) Where reciprocal arrangements between the Secretary of State and the managers of a public service pension scheme exist, the Secretary of State may waive payment of any transfer value

referred to in regulation D5(1)(e); and if he does so, such payment shall be deemed to have been made for the purposes of this regulation.

(3) Where paragraph (2) applies, there shall be credited to the teacher a period of reckonable service equal to the period of war service in respect of which a transfer value would have otherwise been made, and where a teacher was a participant of the police or firemen's pension schemes the period of reckonable service shall be increased by one-third of its length.

(4) In this regulation "the police and firemen's pension schemes" means the pension arrangements maintained in pursuance of Regulations made or having effect as if made under section 1 of the Police Pensions Act 1976⁽¹¹⁾ or section 25 of the Police Act (Northern Ireland) 1970⁽¹²⁾, or in pursuance of the Firemen's Pension Scheme Order 1992⁽¹³⁾ in force under section 26 of the Fire Services Act 1947⁽¹⁴⁾ or in pursuance of any scheme under sections 17 and 26 of the Fire Services Act (Northern Ireland) 1969⁽¹⁵⁾.

PART E

BENEFITS

Overriding provisions as to guaranteed minimum pension

E1.—(1) This regulation shall override any other provisions of these Regulations which are inconsistent with it, except the provisions of regulation E15 (abatement) and E18 (forfeiture of benefits).

(2) If a teacher has a guaranteed minimum in relation to benefits 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 he attains state pensionable age while in pensionable employment, continues in the same employment for a further period of 5 years and does not then cease to hold it, he is (unless he consents to a postponement of his entitlement) entitled from the end of that period to so much of his retirement pension as equals his guaranteed minimum;
- (c) in the case of a man who dies at any time leaving a widow, in relation to the weekly rate of widow's pension provided for her under these Regulations, she shall be entitled, during any such period as is mentioned in section 36(6) of the Pensions Act⁽¹⁶⁾, to a long term pension which shall not be less than half his guaranteed minimum; and
- (d) in the case of a woman who dies on or after 6th April 1989 leaving a widower, in relation to the weekly rate of the pension provided for him under these Regulations, 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.

(3) The guaranteed minimum pensions referred to in paragraph (2) 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⁽¹⁷⁾ and to the extent of any orders made thereunder.

⁽¹¹⁾ 1976 c. 35.

⁽¹²⁾ 1970 c. 9(N.I.).

⁽¹³⁾ S.I. 1992/129.

⁽¹⁴⁾ 1947 c. 41.

⁽¹⁵⁾ 1969 c. 13 (N.I.).

⁽¹⁶⁾ Section 36(6) was amended by the Social Security Act 1986 (c. 50), Schedule 11.

⁽¹⁷⁾ Section 37A was inserted by the Social Security Act 1986 (c. 50), section 9(7).

(4) If the commencement of any teacher's guaranteed minimum pension is postponed for any period, the guaranteed minimum pension shall be increased to the extent, if any, specified in section 35(6), (6A) and (6B) of the Pensions Act(18), as amended from time to time.

Revaluation of guaranteed minimum in certain cases

E2.—(1) This regulation applies where a teacher—

- (a) has ceased to be employed in reckonable service; and
- (b) has acquired a right to a transfer value under regulation F1; and
- (c) has taken that right by exercising the option conferred by paragraph 13(2) of Schedule 1A to the Pensions Act(19) in the way specified in head (b) of that sub-paragraph and where his guaranteed minimum, and where appropriate that of his widow, are appropriately secured within the meaning of section 52C(4) of that Act(20).

(2) Where this regulation applies—

- (a) for the purposes of section 35(2) of the Pensions Act (amount of guaranteed minimum), the teacher's earnings factors shall be determined without reference to any order that comes into force under section 21 of that Act after the relevant year in which his service was terminated; and
- (b) thereafter the weekly equivalent mentioned in section 35(2) of that Act shall be increased—
 - (i) in accordance with any additional requirements for the time being prescribed for the purposes of section 45(1)(b) of that Act; or
 - (ii) by the minimum rate of increase provided for in section 35(7) of that Act, whichever provides the greater increase.

(3) In this regulation “relevant year ” has the meaning given in section 35(9) of the Pensions Act.

Nature of retiring allowances

E3. Retiring allowances consist of—

- (a) a retirement pension; and
- (b) a retirement lump sum,

calculated in accordance with this Part.

Qualification for retiring allowances

E4.—(1) A teacher shall qualify for retiring allowances if—

- (a) immediately before 6th April 1988 he would but for his age have been entitled under regulation 46 of the 1977 Regulations to payment of retiring allowances; or
- (b) he has completed an appropriate qualifying period.

(2) A qualifying period, which may be discontinuous, comprises

- (a) where paragraph (3) or (4) applies, every period of a kind described in Part 1 of Schedule 8; or

(18) Subsection (6) of section 35 was amended by the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 3(2); subsections (6A) and (6B) were inserted by the Social Security Act 1986, section 9(2).

(19) Schedule 1A was inserted by the Social Security Act 1985 (c. 53), Schedule 1, paragraph 3 and amended by the Social Security Act 1986, Schedule 10, paragraphs 29 and 30.

(20) Section 52C was inserted by the Social Security Act 1985, Schedule 1, paragraph 2, and amended by the Social Security Act 1986, Schedule 10, paragraph 26.

(b) where paragraph (5) applies, every period of a kind described in Schedule 8, excluding, in either case, any period in respect of which contributions have been returned to the teacher and not repaid to the Secretary of State.

(3) If the teacher was in pensionable employment, or paying additional contributions to purchase current added years under regulation C8, on 6th April 1988, any qualifying period of 2 years shall be an appropriate one.

(4) If paragraph (3) does not apply, a qualifying period of 2 years beginning after 5th April 1988 shall be an appropriate one; and any period of the kind described in paragraph 4 of Schedule 8 (transfer value received) shall be treated for the purposes of this paragraph as having begun after 5th April 1988.

(5) If neither paragraph (3) nor paragraph (4) applies, and the teacher was in pensionable employment before 6th April 1988, any qualifying period of 5 years shall be an appropriate one.

(6) Notwithstanding that an appropriate qualifying period has not been completed, a teacher shall qualify for retiring allowances if—

(a) he has been employed in pensionable employment during a period in respect of which he has a guaranteed minimum pension being a period in respect of which a contributions equivalent premium cannot be paid; or

(b) a transfer value was paid in respect of him by the Secretary of State to the superannuation scheme of the Commission of the European Communities and one has since been received by the Secretary of State from that scheme.

Entitlement to payment of retiring allowances

E5.—(1) A teacher who has qualified for retiring allowances shall be entitled to payment of them if he—

(a) has attained the age of 60 and has ceased to be in pensionable employment; or

(c) has attained the age of 60 and has ceased to be in pensionable employment falling within paragraph 5, 6, 7 or 8 of Schedule 8; or

(d) has attained the age of 70 and is in employment which would be pensionable employment but for regulation B5(1)(a) (exclusion on age grounds); or

(e) (i) has not attained the age of 60;

(ii) has ceased after 31st March 1972 to be in pensionable employment and

(iii) has become incapacitated; or

(f) (i) has not attained the age of 60, and

(ii) has attained the age of 50, and

(iii) has ceased after attaining that age to be in pensionable employment, and

his employer has certified in writing to the Secretary of State that his pensionable employment, or employment which would be pensionable but for an election under regulation B6 (excluded employment), has been terminated by reason of his redundancy or in the interests of the efficient exercise of the employer's functions.

(2) Entitlement under—

(a) paragraphs 1(a) to (d) takes effect as soon as the teacher meets the conditions prescribed therein;

(b) paragraph 1(e) takes effect—

(i) as from the day after the end of pensionable employment; or

- (ii) if the date of the teacher's application for payment of retiring allowances on grounds of incapacity is later, that date or such other date as the Secretary of State, having regard to all the circumstances, thinks appropriate; and
- (c) paragraph 1(f) takes effect as from the day after the end of the pensionable employment.

Amount of retirement pension

E6.—(1) Subject to paragraphs (2) and (3) and regulations E8 to E11, the annual rate of a teacher's retirement pension shall be 1/80th of his pensionable salary multiplied by his effective reckonable service.

(2) If—

- (a) the teacher is entitled to count a period as reckonable service by virtue of regulation D3 (past added years purchased by additional contributions); and
- (b) by reason of regulation E30(5) part of that period does not count in calculating his retirement lump sum,

the annual rate calculated in accordance with paragraph (1) is, in respect of each year comprised in that part, increased by 1/350th of his pensionable salary.

(3) If a contributions equivalent premium has been paid in respect of the teacher and has not been refunded (and his entitlement to a guaranteed minimum pension is therefore extinguished), the annual rate of his retirement pension is reduced by the annual equivalent of the guaranteed minimum pension to which he would otherwise have been entitled.

Amount of retirement lump sum

E7.—(1) Subject to paragraph (2) and regulations E8 and E9, the amount of a teacher's retirement lump sum shall be the aggregate of A + B + C where—

A is the amount ascertained by multiplying 1/30th of his pensionable salary by his effective reckonable service before 1st October 1956 (except any falling within C),

B is the amount ascertained by multiplying 3/80ths of his pensionable salary by his effective reckonable service after 30th September 1956 (except any falling within C),

C is the amount ascertained by multiplying 3/80ths of his pensionable salary by the period which he is entitled to count as reckonable service by virtue of regulation D3.

(2) If the teacher's reckonable service includes service before 1st October 1956, the part of his retirement lump sum that is attributable to service before he attained the age of 60 is not to exceed his pensionable salary multiplied by 1½.

Limitation of retiring allowances in certain cases

E8.—(1) Paragraphs (2) to (5) apply to a teacher who has made an election under regulation C1(8) (reduced salary treated as having continued at previous rate) and whose average salary falls to be calculated by reference to the notional rate.

(2) The annual rate of the teacher's retirement pension is not to exceed the fraction of the appropriate sum ascertained, by reference to the relevant age, from the Table below.

TABLE

<i>Relevant age</i>	<i>Fraction</i>
Under 50	1/2

<i>Relevant age</i>	<i>Fraction</i>
50	2/5
51	3/10
52	1/5
53	1/10
54	1/14

(3) Where the teacher has been in pensionable employment for less than 20 years, his retirement lump sum is not to exceed $\frac{3}{80}$ ths of the appropriate sum multiplied by the total of his reckonable service and the period ascertained, by reference to the number of complete years he has been in pensionable employment, from the Table below.

TABLE

<i>Years in pensionable employment</i>	<i>Period in years</i>
19	17
18	15
17	13
16	11
15	9
14	7
13	5
12	4
11	3
10	2
9	1
Fewer than 9	0

(4) Where the teacher has been in pensionable employment for 20 years or more his retirement lump sum is not to exceed the appropriate sum multiplied by $1\frac{1}{2}$.

(5) The appropriate sum is the greater of—

- (a) the teacher's contributable salary for the best one of his last 5 years in pensionable employment; and
- (b) $\frac{1}{3}$ rd of his aggregate contributable salary for his best 3 consecutive years in pensionable employment within the 10 years ending with its cessation,

and for the purposes of paragraph (2) the relevant age is his age when he first entered pensionable employment, unless he was not continuously in pensionable employment in which case it is the figure obtained by subtracting the number of years in pensionable employment from 60.

Enhancement of retiring allowances in case of incapacity

E9.—(1) Subject to paragraph (2), this regulation applies to a teacher who has become entitled to payment of retiring allowances by virtue of regulation E5(1)(e) by reason of his becoming incapacitated while employed in pensionable employment, but only if—

- (a) he had completed periods of the kind described in Part 1 of Schedule 8 totalling at least 5 years, excluding any period in respect of which contributions have been returned to him and not repaid to the Secretary of State; and
- (b) the application for payment of retiring allowances under regulation E5(1)(e) is made within 12 months after the end of his pensionable employment or such longer period as may be approved by the Secretary of State.

(2) In relation to a teacher who was, or has at any time been, in part-time service which was pensionable employment, this regulation shall not apply unless the aggregate of the periods of contract of employment during which the part-time service was given and the period of full-time service, if any, extends to at least 5 years.

(3) Subject to regulation E30(2) (limitation of effective reckonable service to 45 years, etc), for the purpose of calculating his retiring allowances the effective reckonable service of a teacher to whom this regulation applies shall be treated as having been increased by the appropriate period.

(4) If the teacher's relevant service amounts to at least 5 years but less than 10 years, the appropriate period is the shorter of—

- (a) the length of his relevant service; and
- (b) the period beginning when his pensionable employment ended and ending immediately before his 65th birthday.

(5) If his relevant service amounts to 10 years or more, the appropriate period is the longer of period A and B.

(6) Period A is the shortest of—

- (a) the period by which his relevant service falls short of 40 years;
- (b) the period beginning when his pensionable employment ended and ending immediately before his 60th birthday; and
- (c) 6 years and 243 days.

(7) Period B is so much of the period beginning when his pensionable employment ended and ending immediately before his 65th birthday as would not cause his effective reckonable service to be increased to more than 20 years.

(8) A teacher's relevant service is so much of his effective reckonable service as does not consist of periods that count by virtue of regulation D3 (past added years purchased by additional contributions).

Avoidance of duplicate pensions

E10.—(1) Subject to paragraph (2), this regulation applies where a teacher's effective reckonable service includes a period that also counts towards another pension payable directly or indirectly out of moneys provided by Parliament or the non-domestic rates and community charges levied by local authorities ("the double period").

(2) This regulation does not apply where the other pension is subject to reduction under regulation E14 of the Local Government Superannuation (Scotland) Regulations 1987(21).

(3) Subject to paragraphs (4) and (5), where this regulation applies the teacher's retiring allowances are reduced by so much as is necessary to secure that A is reduced by B, where—

A is the actuarial value of the retiring allowances in respect of the double period, and

B is the actuarial value of the other pension in respect of that period.

(4) A is not to be reduced to less than the actuarial value of (C+D), where—

C is the contributions paid by the person in respect of the double period, including any paid under regulation C8 (current added years), and

D is interest on those contributions at 3 per cent per annum, compounded with yearly rests, from the first day of the financial year following that in which they were paid to the date on which he became entitled to payment of the retirement pension.

(5) A retirement pension is not to be reduced so that so much of it as is attributable to the double period falls below the rate of any equivalent pension benefits attributable to that period.

(6) The other pension mentioned in this regulation includes any sum payable, whether as a continuing allowance or as a lump sum, by way of pension, superannuation allowance, compensation for loss or abolition of office or otherwise in respect of retirement.

Modification for national insurance

E11. Part I of Schedule 9 has effect for modifying the retirement pensions of teachers who were in pensionable employment before 1st April 1980.

Allocation of part of retirement pension

E12.—(1) A teacher who has become qualified for retiring allowances may, unless he becomes entitled to payment of them by virtue of regulation E5(1)(e) (incapacity), allocate part of his retirement pension to the provision of an alternative benefit.

(2) The alternative benefit may be either—

(a) an annuity for life, commencing on the death of the teacher making the allocation (“the allocator”), for a surviving spouse or dependant; or

(b) an annuity payable to the allocator while the allocator and a spouse are both alive, and if the spouse is the survivor a subsequent annuity for life, at twice the rate of the first annuity, for the spouse.

(3) The rates of the annuities mentioned in paragraph (2) are to be determined in accordance with tables prepared by the Government Actuary.

(4) An allocation is to be made by delivering a declaration to the Secretary of State, and in paragraph (2) “spouse” refers to status at the time of its delivery.

(5) Further provisions as to allocations under this regulation are contained in Schedule 10.

Duration of retirement pension

E13. Subject to regulations E14 to E16 and E18, a retirement pension under regulation E6 continues to be payable until the death of the person entitled to it.

Suspension and resumption of incapacity pensions

E14.—(1) This regulation applies where a teacher who became entitled to payment of a pension by virtue of regulation E5(1)(e) ceases to be incapacitated.

(2) On his ceasing to be incapacitated the pension may be suspended from such date as the Secretary of State thinks appropriate, but any equivalent pension benefits continue to be payable.

- (3) Subject to paragraphs (4) to (6) payment of the pension shall be resumed—
- (a) from the date he attains age 60; or
 - (b) if earlier, and the Secretary of State is satisfied that he has again become incapacitated, from the date on which application for resumption of payment is received.
- (4) A pension shall not be resumed under paragraph (3)(b) if the teacher has been in pensionable employment at any time after he first became entitled to payment of the pension, unless he became so employed in the period of 12 months immediately preceding the date of application for resumption of payment.
- (5) If a pension becomes payable again under paragraph (3)(b) and the Secretary of State is satisfied that the teacher was incapacitated during any part of the period during which the payment of the pension was suspended, the pension appropriate to that period shall be paid to the teacher.
- (6) If a pension becomes payable again under paragraph (3)(a), it shall be treated for the purposes of regulation E15 as one to the payment of which he has become entitled by virtue of regulation E5(1)(a).

Abatement of retirement pension

E15.—(1) Subject to paragraph (5) this regulation applies while a teacher who has become entitled to payment of retiring allowances is employed—

- (a) as a teacher in pensionable employment, comparable British service or employment which would be pensionable employment or comparable British service but for his having made an election under regulation B6 or other provisions to the like effect; or
- (b) as a teacher in part-time service in an employment specified in Schedule 2, and has not attained the age of 70 or had 45 years reckonable service.

(2) Where this regulation applies in respect of any employment falling within paragraph (1) being employment which is expressed to be regular employment, the annual rate of the retirement pension shall be reduced—

- (a) if A equals or exceeds (C+D–E), to zero; and
- (b) in any other case, by the amount (if any) which is necessary to secure that (A+B) does not exceed (C+D–E).

(3) Where this regulation applies in respect of any employment falling within paragraph (1) being employment which is not expressed to be regular employment, the retirement pension in any quarter shall be reduced—

- (a) if

$$\frac{F}{4}$$

equals or exceeds

$$\frac{(C+D-F)}{4}$$

, to zero; and

- (b) in any other case, by the amount (if any) which is necessary to secure that

$$\frac{(B+F)}{4}$$

does not exceed

$$\frac{(C+D-E)}{4}$$

(4) In paragraphs (2) and (3)–

A is the initial annual rate of the teacher’s salary in the employment,

B is the reduced annual rate of the retirement pension as increased under the Pensions (Increase) Act 1971(22),

C is, or where his previous pensionable employment was employment in part-time service is the full-time equivalent of, the highest annual rate of contributable salary that was payable to him during the 3 years ending immediately before he became entitled to payment of the pension,

D is the amount (if any) by which, immediately before the first day of the employment, C would have increased if it had been the annual rate of an official pension, within the meaning of the Pensions (Increase) Act 1971, beginning, and first qualifying for increases under that Act, on the same date as the pension,

E is any part of the retirement pension allocated under regulation E12, and

F is the annual rate of the teacher’s remuneration in the employment on the first day of the pension quarter.

(5) Unless he either changes his employment, or varies the conditions of any contracts of employment concurrently in force, this regulation shall not apply in the case of a teacher–

- (a) to whom retiring allowances have become payable by reason of redundancy or in the interests of the efficient exercise of the employer’s functions; and
- (b) who continues to be employed in pensionable employment under a contract of employment for part-time service which was concurrently in force with the contract of employment which he ceased to hold.

(6) In the case of a teacher to whom paragraph (5) applies, there shall be no reduction in the retirement pension payable to him so long as he continues to be employed under the contract of employment for part-time service referred to in paragraph (5)(b), and for the purposes of this paragraph the rate of earnings shall be deemed to remain constant throughout the period of that employment.

Retiring allowances on cessation of further employment

E16. –

(1) This regulation applies to a teacher who–

- (a) became entitled to payment of a retirement pension (“the first pension”);
- (b) was subsequently in pensionable employment (“the further employment”); and
- (c) has ceased to be in the further employment.

(2) Subject to paragraph (3), if the first pension was not enhanced under regulation E9 (incapacity) the teacher–

- (a) ceases to be entitled to payment of the first pension; and
- (b) becomes entitled to payment of retiring allowances (“combined benefits”) calculated, subject to paragraph (9), by reference to the total of his reckonable service in the further employment and the reckonable service taken into account in calculating the first pension.

(3) If the pensionable salary by reference to which combined benefits would fall to be calculated is less than that by reference to which the first pension was calculated, he—

- (a) remains entitled to the first pension; and
- (b) subject to paragraph (8), becomes entitled to payment of retiring allowances calculated by reference to his reckonable service in the further employment.

(4) Subject to paragraph (8), if the first pension was enhanced under regulation E9, he becomes entitled to payment of the first pension and of additional retiring allowances in respect of the further employment.

(5) The additional retiring allowances shall be calculated—

- (a) in respect of pensionable employment before attaining the age of 60, as if regulation E9 had applied and the further employment had begun when he became entitled to payment of the first pension; and
- (b) in respect of other pensionable employment, in accordance with regulations E6 and E7, but the additional retirement lump sum shall be subject to reduction under paragraph (9).

(6) For the purposes of paragraphs (2)(b) and (3)(a), the amount of any retirement pension shall be taken to be the amount before any allocation under regulation E12.

(7) If, in the application of regulation E9 to the calculation of the first pension, the appropriate period was Period B, paragraph (5)(a) applies with the substitution for “60” of “65”.

(8) If the teacher ceased to be in the further employment before attaining the age of 60 and neither regulation E5(1)(e) (incapacity) nor regulation E5(1)(f) (redundancy, etc.) applied, he shall not become entitled to payment of retirement benefits under paragraph (3)(b) or (4) until he attains that age.

(9) A retirement lump sum payable under paragraph (2)(b), and an additional retirement lump sum payable under paragraph (4), shall be reduced by the amount of the retirement lump sum to which the teacher became entitled when he became entitled to payment of the first pension and of any lump sum to which he had previously become entitled under this regulation.

Gratuities on grounds of incapacity

E17.—(1) A teacher who ceases to be employed in pensionable employment and who—

- (a) is not entitled to payment of retiring allowances under this Part; and
- (b) before attaining the age of 70 became incapacitated; and
- (c) has been employed in pensionable employment for at least one year; and
- (d) has been so employed within the 12 months immediately preceding an application for a gratuity under this regulation,

shall be entitled to payment of an incapacity gratuity calculated in accordance with paragraph (2).

(2) The amount of the incapacity gratuity is obtained by multiplying 1/12th of the teacher’s pensionable salary by the length of his reckonable service in years.

(3) Where a teacher subsequently becomes entitled to retiring allowances under this Part by virtue of again becoming employed in pensionable employment, the amount of the retirement lump sum payable shall be reduced by the amount of the incapacity gratuity paid under this regulation.

Forfeiture of benefits

E18.—(1) This regulation applies where a teacher is convicted of—

- (a) an offence of treason; or

- (b) one or more offences under the Official Secrets Acts 1911 to 1989(23) for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in aggregate to, at least 10 years; or
 - (c) an offence in connection with pensionable employment which is certified by the Secretary of State either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service,
- and any benefit under regulations E1 to E17 becomes payable to him after the offence was committed.
- (2) Subject to paragraph (3), the Secretary of State may–
 - (a) defer or as the case may be suspend payment of the benefit for so long; or
 - (b) reduce its amount or rate by so much,as he may determine.
 - (3) If–
 - (a) the teacher has a guaranteed minimum in relation to benefits under these Regulations; and
 - (b) the case does not fall within paragraph (1)(a) or (b),a determination under paragraph (2) may not deprive him of his guaranteed minimum pension after he attains state pensionable age.

Death gratuities

E19. –

- (1) Subject to paragraph (6), if at the time of his death a teacher–
 - (a) was in pensionable employment; or
 - (b) was paying additional contributions under regulation C8 (current added years); or
 - (c) had, not more than 12 months earlier, ceased to be in pensionable employment while incapacitated,a death gratuity may be paid.
- (2) The amount of the gratuity payable under paragraph (1) is the greater of–
 - (a) the amount which, if on the date of the teacher’s death he had ceased to be employed on becoming incapacitated, would have become payable by way of retirement lump sum; and
 - (b) his pensionable salary,less, in either case, the amount of any retirement lump sum or incapacity gratuity previously paid to him.
- (3) Subject to paragraph (6), if a teacher dies without having become entitled to payment of retiring allowances and–
 - (a) the qualifying condition is satisfied; and
 - (b) no death gratuity could be paid under paragraph (1),a death gratuity may be paid under this paragraph.
- (4) The qualifying condition is that he was entitled to count at least 2 years' reckonable service and ceased to be in pensionable employment on or after 6th April 1988.
- (5) The amount of the gratuity under paragraph (3) is the amount that would have become payable by way of retirement lump sum if he had become entitled under regulation E5(1)(a) to payment of

(23) 1911 c. 28; 1920 c. 75; 1939 c. 121; 1989 c. 6.

retiring allowances, less the amount of any retirement lump sum or short service incapacity grant previously paid to him.

- (6) If a teacher who has at any time been in pensionable employment dies and—
- (a) no death gratuity could be paid under paragraph (1) or (3); or
 - (b) the amount of such a death gratuity would be smaller than the balance of his contributions, calculated in accordance with regulation C11 as at the date of his death, and no pension becomes payable under regulation E25 to a surviving spouse or a nominated beneficiary, a death gratuity equal to the balance of his contributions, calculated in accordance with regulation C11 as at the date of his death, may be paid.

(7) Subject to paragraph (8), where any death gratuity is paid under this regulation, it shall be paid to the deceased's spouse, whom failing, to the legal personal representative.

(8) In the event of the deceased being survived by two or more spouses, they shall be entitled to an equal share of the death gratuity payable under this regulation.

Deficiency grants

E20.—(1) Subject to paragraph (5), this regulation applies where a teacher dies who—

- (a) has become entitled to payment of retirement benefits; and
- (b) is not in pensionable employment.

(2) If—

- (a) at least 10 years' reckonable service was taken into account in calculating his retiring allowances; and
- (b) the total of the amounts paid in respect of these allowances is less than the pensionable salary,

a grant equal to that deficiency may be paid.

(3) If—

- (a) less than 10 years' reckonable service was taken into account in calculating his retiring allowances; and
- (b) the amount paid in respect of his retirement pension is less than 5 times the annual rate at which it was payable when he died,

a grant equal to that deficiency may be paid.

(4) For the purposes of this regulation any part of a pension allocated under regulation E12, or any amount deducted from the retirement lump sum, shall be treated as having been paid.

(5) This regulation does not apply if the person's last employment was of a kind described in Part II of Schedule 9 (employment at reduced salary) and formed part of the qualifying period for the purposes of regulation E4(5) (retiring allowances).

(6) Subject to paragraph (7), where any grant is paid under this regulation, it shall be paid to the deceased's spouse, whom failing, to the legal personal representative.

(7) In the event of the deceased being survived by two or more spouses, they shall be entitled to an equal share of the grant payable under this regulation.

Family benefits generally

E21.—(1) Pensions are payable in accordance with regulations E23 to E28 to widows, widowers, children and nominated beneficiaries of teachers who die in, or after having been in, pensionable employment.

(2) Subject to paragraph (3), references in regulations E23 to E28 to a surviving spouse are references to a widow or widower; but in the case of—

- (a) a male teacher who has not been in pensionable employment, or paying additional contributions to purchase current added years under regulation C8, at any time after 5th April 1978; or
- (b) a female teacher who has not been in pensionable employment, or paying additional contributions to purchase current added years under regulation C8, at any time after 5th April 1988,

such references, and references to a widow or widower, do not include references to a person to whom a male or female teacher became married after his or her last day in pensionable employment or, as the case may be, the end of the period for which any such contributions were paid.

(3) References to a widower in regulations E23 to E28 do not include a widower of a teacher who was, before 6th April 1988, nominated by her as a beneficiary under regulation 65 of the 1977 Regulations.

(4) Where regulations E23 to E28 provide for a pension to be payable to a widow and there are two or more widows, the widows shall be entitled to an equal share of the pension; and where the death of one or more widows occurs, the survivor shall be entitled in full to the pension payable under those regulations, or, in the case of survivors, they shall be entitled to an equal share.

(5) References in regulations E23 to E28 to a teacher's child are to a person who is—

- (a) his child or adopted child; or
- (b) accepted by him as a member of the family,

who is wholly or mainly dependent on him and who is a child within the meaning given in paragraphs (6) to (8).

(6) Subject to paragraphs (7) and (8), for the purposes of regulations E22 to E28 a person is a child while he is unmarried and—

- (a) he has not attained the age of 17; or
- (b) having attained that age, he is receiving full-time education or attending a course of not less than 2 years' full-time training for a trade, profession or calling; or
- (c) having not attained the age of 19, he is not in remunerative full-time work and is not entitled to income support by reason that he is receiving relevant education for the purposes of section 20 of the Social Security Act 1986(24); or
- (d) having ceased while incapacitated to fall within sub-paragraph (a), (b) or (c), he continues to be incapacitated.

(7) For the purposes of paragraph (6)(b) a person is to be treated as not attending a course of training while he is receiving disqualifying income.

(8) Disqualifying income is remuneration at a rate not less than the annual rate at which an official pension, within the meaning of the Pensions (Increase) Act 1971(25), would for the time being be payable if it had begun, and first qualified for increases under that Act, on 1st April 1972 and had then been payable at an annual rate of £250.

(9) References in regulations E23 to E28 to a nominated beneficiary are to a person nominated under regulation 65 of the 1977 Regulations (including a spouse of a female teacher nominated by her before 6th April 1988) or regulation E22.

(24) 1986 c. 50; section 20 was amended by the Social Security Act 1988 (c. 7), sections 3 and 4, by the Local Government Finance Act 1988 (c. 41), Schedule 10, paragraph 2, by the Social Security Act 1989 (c. 24), sections 5(1) and 13 and Schedule 8, paragraph 15(1).

(25) 1971 c. 56.

Nomination of beneficiaries

E22.—(1) Subject to paragraph (2), an unmarried person (“the appointor”) may at any time while in pensionable employment, by giving written notice to the Secretary of State, nominate an eligible person who is wholly or mainly financially dependent on the appointor and who is not a child to receive a pension under regulations E23 to E28.

(2) No person may be nominated while a previous nomination under this regulation or under regulation 65 of the 1977 Regulations has effect.

(3) The eligible persons are—

- (a) a parent of the appointor;
- (b) a brother or sister of the appointor; and
- (c) a widowed step-parent of the appointor.

(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; or
- (b) on the marriage of the appointor.

Entitlement to short-term family benefits

E23.—(1) Subject to paragraphs (3) and (4), a short-term pension shall be payable, from the day after that of his death, in respect of a teacher who, on or after the date on which these Regulations come into force, dies—

- (a) while in pensionable employment; or
- (b) during a period for which he is paying additional contributions under regulation C8; or
- (c) within 12 months after ceasing to be in pensionable employment, or to pay such contributions, by reason of incapacity, but before becoming entitled to payment of retiring allowances; or
- (d) having become entitled after the date on which these Regulations come into force, to receive payment of retiring allowances.

(2) The short-term pension shall be payable—

- (a) subject to paragraph (4)(a), to any surviving spouse; or
- (b) if a nomination under regulation E22 had effect at the time of his death, to the nominated beneficiary; or
- (c) if there is no surviving spouse or nominated beneficiary and the deceased is survived by a child or children, to or for the benefit of the child or, as the case may be, the children jointly.

(3) Where two or more teachers confer on the same child or, as the case may be, children, entitlement to a short-term pension, regulation E25(12) shall apply in a like manner to short-term pensions payable by virtue of this regulation.

(4) No short-term pension shall be payable—

- (a) to a widower if one is payable to another person as a nominated beneficiary; or
- (b) if there is no surviving spouse, nominated beneficiary or surviving child; or
- (c) where paragraph (1)(d) applies, to a person who is not entitled to a long-term pension under regulation E25.

Amount and duration of short-term family benefits

E24.—(1) Subject to paragraph (2), the annual rate of a short-term pension under regulation E23 shall be—

- (a) if regulation E23(1)(a) or (c) applies, the annual rate of the deceased’s contributable salary on his last day in pensionable employment, disregarding any reduction by reason of sick leave or maternity leave;
- (b) if regulation E23(1)(b) applies, the annual rate at the time of his death of the notional salary described in regulation C8(7);
- (c) if regulation E23(1)(d) applies, the annual rate at the time of his death of his retirement pension; and
- (d) if regulation E23(1)(a) and (d) both apply, the total of the rates specified in sub-paragraphs (a) and (c) above.

(2) Where the annual rate of a short-term pension payable to a surviving spouse, nominated beneficiary or child calculated in accordance with paragraph (1) is less than that of a long-term pension to which those persons are prospectively entitled under regulation E25, the annual rate of the short-term pension is the same as that of the long-term pension.

(3) Subject to paragraph (4), the duration of the short-term pension payable shall be ascertained from the table below.

TABLE

<i>Category</i>	<i>Payee</i>	<i>Duration of pension (months)</i>
1	Spouse or nominated beneficiary but with no child	3
2	Spouse or nominated beneficiary with one child or more	6
3	No spouse or nominated beneficiary but one child or more	6

(4) On the death of a spouse or nominated beneficiary before the termination of the short-term pension payable under category 2 of the table in paragraph (3), the balance of pension is payable to the child or children as the case may be.

Entitlement to long-term family benefits

E25.—(1) Long-term pensions are payable in accordance with paragraphs (5) and (6) if a teacher dies who—

- (a) has been in pensionable employment at any time after 31st March 1972; and
- (b) has relevant service amounting to at least 2 years,
but in the case of a teacher who ceased to be in pensionable employment before 6th April 1988 sub-paragraph (b) has effect with the substitution for “2 years” of “5 years”.

(2) Relevant service does not include any period in respect of which contributions made by the teacher have been returned and not repaid to the Secretary of State in pursuance of regulation C13.

(3) In the case of a male teacher, and in the case of a woman teacher in relation to a nominated beneficiary, relevant service comprises, subject to paragraph (2)—

- (a) any period of pensionable employment after 31st March 1972;
 - (b) any period beginning after that date for which additional contributions have been paid under regulation C8 (current added years);
 - (c) any period for which additional contributions have been paid under regulation C3 or C5(1) (past added years) in accordance with an election made after 31st March 1974;
 - (d) if a transfer value has been received in respect of comparable British service, the period that would, immediately before its receipt, have counted for family benefits in the relevant superannuation scheme;
 - (e) any period counting as reckonable service by virtue of the receipt of any other transfer value under regulation F3 or under the Teachers Superannuation (Added Years and Interchange) (Scotland) Regulations 1974⁽²⁶⁾;
 - (f) any period counting as reckonable service by virtue of regulation 6A of the 1977 Regulations⁽²⁷⁾;
 - (g) any period counting as reckonable service by virtue of regulation 29 of the 1977 Regulations (special provisions relating to period from 1st December 1973 to 31st March 1974);
 - (h) any period in respect of which family benefit contributions have, or are to be treated as having, been paid under Part I of Schedule 6; and
 - (i) in the case of a member, so much of his credited service as does not exceed the total of his normal service and any additional period, and in addition any period that fell to be calculated in accordance with paragraph 6(3) of Schedule 6.
- (4) In relation to a woman teacher not falling within paragraph (3), relevant service comprises, subject to paragraph (2)–
- (a) so much of the periods described in paragraph (3)(a), (b) and (d) as consists of, or is attributable to, service after 5th April 1988;
 - (b) any period for which additional contributions have been paid under regulation C3 (past added years) in accordance with an election made after 5th April 1988;
 - (c) any period in respect of which family benefit contributions have, or are to be treated as having, been paid under Part II of Schedule 6; and
 - (d) if she entered pensionable employment after 5th April 1988, and a transfer value offered in respect of her was accepted under regulation F3, any period counting as reckonable service by virtue of receipt of the transfer value.
- (5) If paragraph (1) applies–
- (a) subject to paragraph (7) a long-term pension shall be payable to any surviving spouse;
 - (b) if a nomination under regulation 65 of the 1977 Regulations or under regulation E22 had effect at the time of death, a long-term pension shall be payable to the nominated beneficiary; and
 - (c) if a pension is payable under sub-paragraph (a) or (b) and the deceased is survived by a child or children of his, a long-term pension shall be payable to or for the benefit of the child or, as the case may be, the children jointly.
- (6) If when a teacher dies paragraph (5) does not apply but he–
- (a) has been in pensionable employment at any time after 31st March 1972; and
 - (b) is qualified for retiring allowances; and

⁽²⁶⁾ S.I. 1974/1135, revoked by S.I. 1977/1360.

⁽²⁷⁾ Regulation 6A was inserted by S.I. 1977/1808.

(c) is survived by a child or children of his,

a long-term pension shall be payable to or for the benefit of the child or, as the case may be, the children jointly.

(7) Subject to paragraphs (8) and (9), no long-term pension is payable to a widower if one is payable to another person as a nominated beneficiary.

(8) If the other person was nominated as a beneficiary by a married woman teacher under regulation 65 of the 1977 Regulations, and she has not revoked that nomination, in addition to the long-term pension payable to that person under paragraph (5)(b) there shall be payable to the widower a long-term pension calculated in accordance with regulation E26(7).

(9) Subject to paragraph (10) and regulation E26(7), if neither paragraph (5) nor paragraph (8) applies but the deceased had a guaranteed minimum in relation to benefits under these Regulations and leaves a surviving spouse, subject to regulation E1(2)(c) or (d) a long-term pension shall be payable.

(10) If a contributions equivalent premium is paid by the Secretary of State, paragraph (9) is to be treated as not having applied.

(11) Paragraph (12) applies where two or more teachers, by virtue of this regulation, confer on the same child or, as the case may be, children, entitlement to a long-term pension.

(12) The child or, as the case may be, children shall be entitled to receive payment of the long-term pension in respect of not more than two teachers; but where entitlement derives from the relevant service of three or more teachers, the child or, as the case may be, children shall be entitled to receive payment of the long-term pension in respect of the two teachers whose relevant service provides pensions of the largest amounts.

Amounts of spouses' and nominated beneficiaries' long-term pensions

E26.—(1) Subject to paragraphs (2) and (7), the annual rate of a pension payable under regulation E25 to a surviving spouse or a nominated beneficiary shall be 1/160th of the deceased's pensionable salary multiplied by the length of his family benefit service.

(2) If—

(a) paragraph 15 of Schedule 6 (retrospective salary increases affecting deductions from terminal sums and amounts of lump sum payments) applies; and

(b) a person entitled to limit the amount of the deduction or lump sum has done so, the retrospective salary increase is not to be taken into account in calculating the deceased's pensionable salary.

(3) Family benefit service does not include any period in respect of which contributions made by a teacher have been returned and not repaid to the Secretary of State in pursuance of regulation C13.

(4) Subject to paragraphs (3), (5), (8), (9) and (10), if the pension is payable to a nominated beneficiary or to a woman whom the deceased married before the end of his pensionable employment, the deceased's family benefit service comprises—

(a) any period falling within regulation E25(3)(a) to (h);

(b) in the case of a member, his credited service and any period that fell to be calculated in accordance with paragraph 6(3) of Schedule 6; and

(c) any period related to war service in respect of which an additional contribution has been paid under regulation C7(8) or Part IV of Schedule 6 or which is included by virtue of paragraph 20(1) of that Schedule.

(5) If the member's credited service exceeds the total of his normal service and any additional period, for the purposes of paragraph (4)(b) his credited service is reduced by 1/6th of the excess.

(6) If the pension is payable to a widower, other than a widower to whom paragraph (7) applies, the deceased's family benefit service comprises, subject to paragraphs (3) and (8) to (10), the relevant service described in regulation E25(4).

(7) Notwithstanding anything in paragraphs (1), (4), (5), (6) and (8) to (10), the pension payable to a widower of a teacher who had in effect at the date of death a nomination in respect of another person under regulation 65 of the 1977 Regulations, 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 by multiplying 1/160th of the deceased teacher's pensionable salary by the period in respect of which family benefit contributions have been paid under Part II of Schedule 6.

(8) This paragraph applies if the deceased died—

- (a) while in pensionable employment; or
- (b) during a period for which he was paying additional contributions under regulation C8 (current added years); or
- (c) within 12 months after ceasing to be in pensionable employment as a result of ill-health but before becoming entitled to payment of retirement benefits; or
- (d) after becoming entitled to payment of retirement benefits, if they fell to be enhanced under regulation E9 (incapacity), and

he had at least 5 years' reckonable service.

(9) If paragraph (8) applies and the family benefit service calculated in accordance with paragraphs (3) to (6) is less than his effective reckonable service, his family benefit service is increased by—

$$\frac{A}{B} \times C$$

where—

A is the family benefit service calculated in accordance with paragraphs (3) to (6),

B is his effective reckonable service apart from C, and

C is the period which was, or would if regulation E9 (enhancement) had applied have been, the appropriate period within the meaning of regulation E9.

(10) If paragraph (8) applies and A is not less than B, his family benefit service is increased by C.

(11) If the deceased had been in pensionable employment after 5th April 1978 and the pension is payable to a woman whom he first married after his last day in pensionable employment, his family benefit service comprises, subject to paragraph (3)—

- (a) any period of pensionable employment after 5th April 1978;
- (b) any period for which additional contributions have been paid under regulation C3 (past added years) in accordance with an election made after that date;
- (c) any period beginning after that date for which additional contributions have been paid under regulation C8;
- (d) if a transfer value has been received after that date in respect of comparable British service, any period of reckonable service attributable to comparable British service after that date;
- (e) any period counting as reckonable service by virtue of the receipt after that date of any other transfer value; and

- (f) so much of any period counting as reckonable service by virtue of regulation 6A of the 1977 Regulations as is attributable to service after that date.

Amounts of children's long-term pensions

E27. –

- (1) Subject to paragraph (3), if long-term pensions become payable under regulation E25–
- (a) to a surviving spouse or a nominated beneficiary (an “adult pension”); and
 - (b) to or for the benefit of a child or children (a “children’s pension”),
- the annual rate of the children’s pension is the appropriate fraction of the deceased’s pensionable salary multiplied by A or, where regulation E26(6) applies, B, where–
- A is in all cases the length of what would have been the deceased’s family benefit service if regulation E26(4) had applied, and
- B is the number of years on which A is calculated increased in like proportion as if it were service to which regulation E26(9) or, as the case may be, regulation E26(10) had applied.
- (2) The appropriate fraction–
- (a) while a children’s pension is payable to or for the benefit of 2 or more children, is 1/160th; and
 - (b) while a children’s pension is payable to or for the benefit of one child, is 1/320th.
- (3) If–
- (a) no adult pension becomes payable; or
 - (b) an adult pension ceases to be payable,
- the annual rate of a children’s pension is the applicable fraction of the deceased’s pensionable salary multiplied by C or, where regulation E26(6) applies, C + D, where–
- C is the deceased’s effective reckonable service apart from D, and
- D is the period which was, or would if regulation E9 (enhancement) had applied have been, the appropriate period within the meaning of regulation E9.
- (4) The applicable fraction–
- (a) while a children’s pension is payable to or for the benefit of 2 or more children, is 1/120th; and
 - (b) while a children’s pension is payable to or for the benefit of one child, is 1/240th.

Commencement and duration of long-term family pensions

E28. –

- (1) A pension under regulation E25 payable to a surviving spouse or a nominated beneficiary (“an adult pension”) shall be paid–
- (a) from the day on which any short-term pension that became so payable under regulation E23 ceases to be payable; or
 - (b) if no short term pension became payable, from the day after that of the death.
- (2) Subject to paragraph (3), an adult pension shall be payable for life.
- (3) Subject to regulation E1(2)(c) and (d) (guaranteed minimum pension for surviving spouse), an adult pension–

- (a) shall not, unless the Secretary of State determines otherwise in the particular case, be payable during any subsequent marriage or any period of cohabitation outside marriage; and
 - (b) if the Secretary of State so decides, may be payable upon the former recipient again becoming a widow or widower or on the termination of any such marriage or, as the case may be, of the period of cohabitation.
- (4) A pension under regulation E25 payable to or for the benefit of a child or children (“a children’s pension”) shall be paid–
- (a) from the day on which any short-term pension that became so payable, or payable to a surviving spouse or a nominated beneficiary, under regulation E23 ceases to be payable; or
 - (b) if no short-term pension became payable, from the day after that of the death.
- (5) A children’s pension ceases to be payable to a person or for his benefit when he ceases to be a child.

Pensionable salary

- E29.**—(1) Subject to paragraphs (9) and (10), a teacher’s pensionable salary–
- (a) where the material part of his terminal service is one year or more, is his full salary for the best consecutive 365 days of that part; and
 - (b) in any other case, is the average annual rate of his full salary for that part.
- (2) Terminal service comprises–
- (a) any period counting as reckonable service by virtue of regulation D1(1)(a) (pensionable employment); and
 - (b) any period counting as reckonable service by virtue of regulation D4 (current added years purchased by additional contributions); and
 - (c) subject to paragraph (3), any period of a kind described in paragraphs 5 to 8 of Schedule 8 (certain periods of employment counting towards qualification for benefits).
- (3) A teacher who is in an employment falling within paragraphs 5 to 8 of Schedule 8 may, by giving written notice to the Secretary of State, elect that from the date from which the election takes effect the employment is not to constitute terminal service.
- (4) An election under paragraph (3)–
- (a) if the notice is received before the teacher attains the age of 60, takes effect from his 60th birthday; and
 - (b) in any other case, takes effect from the first day of the month following that in which the notice was received.
- (5) The material part of a teacher’s terminal service is–
- (a) where he has less than 3 years of such service, the whole of it; or
 - (b) in any other case, the last 3 years of it.
- (6) Subject to paragraphs (7) and (8), a person’s full salary–
- (a) for a period falling within paragraph (2)(a), is his contributable salary for the period of pensionable employment, disregarding any reduction during sick leave or maternity leave;
 - (b) for a period falling within paragraph (2)(b), is the notional salary by reference to which the additional contributions paid under regulation C8 were calculated; and
 - (c) for a period falling within paragraph (2)(c), is what would have been his salary for the purpose of calculating benefits under the superannuation scheme to which he was subject in the relevant employment.

(7) For—

- (a) a period of pensionable employment; or
- (b) a period counting as reckonable service by virtue of regulations D1(1)(b) and D4, beginning after 31st July 1975 and ending before 1st August 1978, a person's full salary includes any sums that would have been payable to him if payment of them had not been withheld, whether by virtue of an enactment or otherwise, in order to comply with limits referred to in section 1 of the Remuneration, Charges and Grants Act 1975⁽²⁸⁾.

(8) For—

- (a) a period of pensionable employment; or
- (b) a period counting as reckonable service by virtue of regulations D1(1)(b) and D4, beginning after 31st March 1979 and ending before 1st September 1980, a person's full salary is the notional salary resulting from the application to him of the Teachers' Superannuation (Notional Salaries) (Scotland) Regulations 1982⁽²⁹⁾.

(9) In the case of a teacher employed in part-time service under contracts of employment concurrently in force who ceases to be employed under any one of those contracts in circumstances by virtue of which he becomes entitled to retiring allowances under regulation E5(1)(f), his pensionable salary shall be deemed to be the pensionable salary which is related to the contract of employment which he ceased to hold.

(10) If the Secretary of State is satisfied that the salary of a teacher has been unreasonably increased in respect of any period which is in the opinion of the Secretary of State relevant for the purposes of this regulation, his pensionable salary shall be calculated by reference to such a salary in respect of that period as the Secretary of State considers reasonable.

Effective reckonable service

E30.—(1) A teacher's effective reckonable service is so much of his reckonable service as counts for the purpose of calculating a benefit under this Part, except a pension under regulation E25.

(2) Subject to paragraph (3), effective reckonable service does not include—

- (a) any reckonable service in excess of 45 years; or
- (b) any reckonable service in excess of 40 years before attaining age 60.

(3) In relation to a retirement lump sum, if the teacher's reckonable service includes service before 1st October 1956—

- (a) any reckonable service excluded by paragraph (2)(a) is to be taken from the beginning of his reckonable service; and
- (b) paragraph (2)(b) does not apply.

(4) In respect of a teacher employed in part-time service under contracts of employment concurrently in force who ceases to be employed under any of those contracts in circumstances by virtue of which he becomes entitled to retiring allowances under regulation E5(1)(f), effective reckonable service does not include any reckonable service recorded whether before or after cessation of the said contract of employment in respect of any contracts of employment under which he continues to be employed.

(5) In relation to a retirement lump sum, if the teacher's relevant service, that is to say the total of—

- (a) the time he has spent in pensionable employment;

⁽²⁸⁾ 1975 c. 57; section 1 was amended, and the period for which it had effect extended to end with 31st July 1978, by the Price Commission Act 1977 (c. 33), section 17; references to limits set out in documents laid before Parliament in 1976 and 1977 were added by S.I. 1976/1097 and 1977/1294.

⁽²⁹⁾ S.I. 1982/1302.

- (b) any comparable British service counting as reckonable service by virtue of the receipt of a transfer value; and
- (c) any period counting as reckonable service by virtue of regulation 6A of the 1977 Regulations,

is less than 20 years, his effective reckonable service does not include so much of any period counting as reckonable service by virtue of regulation D3 (past added years purchased by additional contributions) as exceeds the maximum ascertained from the Table below.

TABLE

<i>Relevant service in years</i>	<i>Maximum</i>
19	17 years
18	15 years
17	13 years
16	11 years
15	9 years
14	7 years
Fewer than 14	8 years less than the length in years and days of the relevant service

(6) For the purposes of paragraph (5) a person who becomes entitled to payment of retirement benefits by virtue of regulation E5(1)(e) or (f) (incapacity or redundancy before attaining the age of 60) is to be treated as having continued in pensionable employment up to that age.

Payment of benefits

E31.—(1) Benefits under this Part are payable by the Secretary of State.

(2) A benefit that does not consist of a single payment shall normally be paid monthly; but—

- (a) may, on the application of the person entitled thereto, be paid quarterly; or
- (b) may be paid in such instalments and at such intervals as the Secretary of State may think appropriate.

(3) Where payment of any such sum is due in respect of a period which is less than the interval at which it is payable—

- (a) the amount payable in respect of each complete month of the period shall be 1/12th of the annual rate of the sum; and
- (b) the amount payable in respect of a period of less than 1 complete month shall be

$$\frac{A}{12} \times \frac{B}{C},$$

where—

A is the annual rate of the benefit,

B is the number of days in respect of which the benefit is payable, and

C is the total number of days in the month in which the days in B fall.

(4) If the person entitled to payment of a benefit is a person under legal disability by reason of nonage, or is incapable by reason of infirmity of mind or body of managing his affairs, the Secretary of State may—

- (a) pay it to any person having the care of the person entitled; or
- (b) apply it as he thinks fit for the benefit of the person entitled or his dependants.

Benefits not assignable

E32.—(1) Any assignation of or charge on, or agreement to assign or charge, any benefit under this Part shall be void.

(2) On the sequestration of the estate of a person entitled to any such benefit or on the bankruptcy of such a person, no part of the benefit shall pass to any trustee or other person acting on behalf of the creditors, except as provided in paragraph (3).

(3) Nothing in paragraph (2) shall affect the powers of the Court under section 32(2) and (4) of the Bankruptcy (Scotland) Act 1985⁽³⁰⁾ or under section 310 of the Insolvency Act 1986⁽³¹⁾, as the case may be.

PART F

TRANSFER VALUES

Payment of transfer values

F1.—(1) Subject to paragraphs (2) to (14), where a teacher has, after 31st December 1985, ceased to be in pensionable employment, or has, after 5th April 1988, entered excluded employment by virtue of an election made under regulation B6, the Secretary of State shall in respect of that teacher pay a transfer value, calculated in accordance with Part I of Schedule 11, to be used in accordance with paragraph 13 of Schedule 1A to the Pensions Act⁽³²⁾ at the teacher's option in one or more of the ways set out in sub-paragraph (2) of that paragraph.

(2) A transfer value is not to be paid unless the teacher ceased to be employed in pensionable employment, or entered excluded employment, before attaining the age of 60 years or, where paragraph (5) applies, the age of 59 years.

(3) A transfer value is not to be paid where a teacher has been in pensionable employment for less than 2 years unless—

- (a) on ceasing to be employed in pensionable employment and taking up employment in which he participates in an approved superannuation scheme, personal pension scheme or self employed pension arrangement; or
- (b) on entering excluded employment in which he participates in a personal pension scheme, he has, within 12 months after taking up that employment or beginning so to participate, made an application such as is mentioned in paragraph (4) for payment of a transfer value.

(4) The teacher must before—

- (a) attaining the age of 60 years; or

⁽³⁰⁾ 1985 c. 66.

⁽³¹⁾ 1986 c. 45.

⁽³²⁾ Schedule 1A was inserted by the Social Security Act 1985 (c. 53), Schedule 1, paragraph 3 and amended by the Social Security Act 1986 (c. 50), Schedule 10, paragraphs 29 and 30..

(b) where paragraph (5) applies, attaining the age of 59 years, or 6 months after the date he ceased to be employed in pensionable employment or entered excluded employment, whichever is later,

have made an application in writing to the Secretary of State for payment of a transfer value and not subsequently withdrawn it in accordance with paragraph (9).

(5) This paragraph applies where a teacher 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.

(6) Where paragraph (5) applies, a transfer value is not to be paid unless the teacher has been in pensionable employment for at least 2 years.

(7) A transfer value is not to be paid in respect of a teacher to whom benefits under these Regulations have been paid, other than -

(a) a benefit consisting of a return of contributions in respect of part only of the teacher's pensionable employment (whether or not repaid to the Secretary of State); or

(b) a benefit consisting of a return of contributions in respect of all of the teacher's pensionable employment under regulation 17(2) or 45(1) of the 1977 Regulations where an amount equal to the sum received by him has subsequently been repaid to the Secretary of State.

(8) In the case of a teacher taking up employment in comparable British service, the time limit prescribed in paragraph (3) for making an application such as is mentioned in paragraph (4) shall not apply.

(9) An application for payment of a transfer value may be withdrawn by a teacher 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 teacher's transfer value in one of the ways set out in paragraph 13 of Schedule 1A to the Pensions Act.

(10) A teacher who withdraws an application in terms of paragraph (9) may make another.

(11) Subject to paragraph (12), the Secretary of State shall, on receipt of the teacher's application under paragraph (4), 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 teacher attains the age of 60 years where-

(i) he ceased to be employed in pensionable employment or entered excluded employment 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.

(12) 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 pensionable employment 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 the teacher being reduced or withheld under regulation E18 (forfeiture), 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 (11); or

(b) the end of the period of 3 months after the conclusion of the court proceedings (including any proceedings on appeal),

whichever is the later.

(13) When the payment of a transfer value is made, the teacher's accrued rights, within the meaning given in Schedule 11, to which it relates shall cease to be treated as such for all purposes of these Regulations.

(14) Where a body administering a superannuation scheme waives payment of a transfer value which would otherwise have been paid by the Secretary of State under this regulation, such a payment will be deemed to have been made for all purposes of these Regulations.

Payment of additional transfer values in respect of war service

F2.—(1) Subject to paragraph (2), this regulation applies to a teacher—

- (a) to whom regulation 68 (war service) of the 1977 Regulations applied;
- (b) who was alive on 1st September 1974;
- (c) who last ceased to be in pensionable employment before that date;
- (d) in respect of whom a transfer value became payable, by reason of that cessation, to the scheme managers of a public service pension scheme (“the new scheme”); and
- (e) who by virtue of that transfer value was on 1st April 1978 entitled to reckon service for the purposes of the new scheme.

(2) This regulation does not apply if, after the end of his war service and before entering pensionable employment, the teacher was in service or employment in which he was subject to a superannuation scheme and in consequence of which he is, or is likely to become, entitled to reckon service for superannuation purposes by reason of war service.

(3) Subject to paragraphs (4), (5) and (7), if this regulation applies to a teacher an additional transfer value calculated in accordance with Part II of Schedule 11 shall be paid in respect of him to the scheme managers of the new scheme.

(4) The former teacher must—

- (a) apply in writing to the Secretary of State, giving his date of birth, sex, the period of war service and any other particulars that are necessary to enable the Secretary of State to pay such an additional transfer value; and
- (b) address the application in the first instance to the scheme managers of the new scheme.

(5) Where after 31st August 1974 a spouse’s or child’s pension becomes payable under the provisions of the new scheme in respect of a former teacher who, had he not died, could have applied for payment of a transfer value under this regulation, the person entitled to such a spouse’s or child’s pension may make a corresponding application.

(6) The period of reckonable service in respect of which the Secretary of State shall make the transfer value under this regulation shall be the period of war service multiplied by 46.5%.

(7) Where reciprocal arrangements between the Secretary of State and the managers of a public service pension scheme exist to waive payment of transfer values due and the said managers waive payment, the transfer value shall be deemed to have been paid for the purposes of this regulation; and the Secretary of State shall notify the said managers of the period of reckonable service calculated in accordance with paragraph (6) of this regulation.

(8) “Public service pension scheme” has the meaning assigned to it by regulation D5(2).

Receipt of transfer values

F3.—(1) A teacher who has entered pensionable employment and has, in consequence of previous employment, accrued rights to benefit under—

- (a) an approved superannuation scheme;
- (b) a personal pension scheme; or
- (c) a self employed pension arrangement,

whether or not those 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(33) by one or more appropriate policies, may give written notice to the Secretary of State that he wishes him to accept a transfer value in respect of those accrued rights, or any part of them.

(2) Subject to paragraphs (3) to (5), the Secretary of State on receipt of the notice from the teacher may accept from—

- (a) the trustees or managers of the approved superannuation scheme, personal pension scheme or self employed pension arrangement in which his accrued rights are preserved (hereinafter in the 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, a transfer value in respect of all, or part, of those accrued rights.

(3) Unless while the teacher was subject to the previous scheme he was employed in comparable British service, the written notice must have been given within 12 months after the day on which the teacher entered pensionable employment.

(4) A transfer value shall not be accepted in respect of a teacher who—

- (a) is a re-employed teacher to whom regulation E15 (abatement) applies; or
- (b) has become entitled to payment of benefits under a provision of a statutory scheme corresponding to regulation E5.

(5) Subject to paragraph (6), where notice is given and the transfer value is accepted by the Secretary of State—

- (a) an additional period of reckonable service will be credited to the teacher in respect of the transfer value calculated in accordance with Part III of Schedule 11; and
- (b) the period of service in respect of which the transfer value 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.

(6) A transfer value shall not be accepted unless it exceeds the annual amount of the guaranteed minimum pension which the Secretary of State would have been liable to provide 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 the person’s age, as at the date when the Secretary of State is requested to accept the transfer value, as set out in column 1—

Age	Appropriate factor
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12

(7) For the purposes of this regulation, “employment” shall not be construed only as employment under a contract of service.

(33) Section 52C was inserted by the Social Security Act 1985 (c. 53), Schedule 1, paragraph 2.

PART G

FINANCE

Teachers' superannuation account

G1.—(1) The Secretary of State shall keep an account, in such form and prepared in such manner as the Treasury may approve, of all receipts and payments under these Regulations for every financial year.

(2) The account required by regulation 76 of the 1977 Regulations to be kept for the financial year beginning 1st April 1991 shall be treated as having been required by this regulation and for these purposes all receipts and payments under the 1977 Regulations and like receipts and payments under these Regulations, in respect of that financial year, shall be aggregated and treated as if they were receipts and payments under these Regulations.

Receipts, etc., to be credited

G2.—(1) Employees' and employers' contributions received during the financial year shall be credited to the account.

(2) Employees' contributions comprise—

- (a) all contributions payable under regulations C2(1), C3, C4, C5, C7 and C9;
- (b) so much of any additional contributions payable under regulation C8 as would have been payable under regulation C2(1) if pensionable employment had continued; and
- (c) all amounts payable under regulation C13 (repayment of returned contributions).

(3) Employers' contributions comprise—

- (a) the contributions payable under regulation G5; and
- (b) so much of any additional contributions payable under regulation C8 as would have been payable under regulation G5 if pensionable employment had continued.

(4) There shall also be credited to the account—

- (a) the closing balance in the account for the preceding financial year;
- (b) all transfer values under regulation F3 and additional transfer values under regulation D5 (war service) received during the financial year;
- (c) all contributions equivalent premiums refunded, or recovered under section 47 of the Pensions Act(34), during the financial year;
- (d) any interest and other payments under these Regulations received during the financial year; and
- (e) the notional interest for the financial year described in Schedule 12.

Payments to be debited

G3. There shall be debited to the account all sums paid during the financial year by way of—

- (a) benefits under Part E, so far as not attributable to service before 1st June 1922;
- (b) payments under paragraph 11 of Schedule 9 (equivalent pension benefits);
- (c) returns of contributions (including interest) under regulations C10 and C12;

(34) Section 47 was amended by the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 22(14) and by the Social Security Act 1985 (c. 53), Schedule 5, paragraphs 29 and 30.

- (d) transfer values under regulation F1 and additional transfer values under regulation F2 (war service); and
- (e) contributions equivalent premiums.

Actuarial inquiries

G4.—(1) The Government Actuary shall make an actuarial inquiry at the end of the financial year ending with 31st March 1996 and at the end of every fifth subsequent financial year.

(2) A report on the inquiry shall be made to the Secretary of State and shall be laid by him before each House of Parliament.

(3) The report shall specify, for teachers entering pensionable employment on the first day of the next financial year, the percentage of the contributable salaries of those teachers to be paid, during the period beginning on 1st April next following the date of the report and ending with 31st March next following the date of the next report (“the relevant period”), so as to defray the cost of the payments of the kinds described in regulation G3(a) to (e) that are likely to be made in respect of them.

(4) The report shall state the amount by which, at the end of the financial year, the amount of the scheme assets exceeded or fell short of that of the scheme liabilities.

(5) The scheme assets are—

- (a) the employees' contributions receivable after the end of the financial year in respect of teachers who at the end of that year were or had been in pensionable employment;
- (b) the employers' contributions in respect of such teachers receivable after the end of the financial year, except any such supplementary contributions as are mentioned in paragraph (7);
- (c) payments that would fall to be credited under regulation G2(4)(d) and (e) to the accounts for subsequent financial years; and
- (d) the actuarial value at the end of the financial year of the notional and assumed investments described in paragraph 1 of Schedule 12.

(6) The scheme liabilities are the payments to be made under these Regulations after the end of the financial year in respect of teachers who at the end of that year were or had been in pensionable employment, except payments attributable to service before 1st June 1922.

(7) If the report states that the amount of the scheme liabilities exceeded that of the scheme assets, it shall specify a rate at which, during the relevant period, supplementary contributions should be paid by employers of teachers in pensionable employment so as to remove the deficiency within the period of 40 years beginning at the same time as the relevant period.

(8) The rate shall be expressed as a percentage of the contributable salaries from time to time of persons in pensionable employment; the percentage must either be, or be a multiple of, 0.25.

(9) In this regulation “employees' contributions” and “employers' contributions” are to be construed in accordance with regulation G2(2) and (3).

Employers' contributions

G5.—(1) Subject to paragraph (3), the employer of a teacher in pensionable employment shall during every relevant period pay contributions of the required percentage of the teacher's contributable salary for the time being.

(2) The required percentage is

$$(A-f) + B,$$

where—

A is the percentage specified for the relevant period under regulation G4(3), and

B is any percentage specified for the relevant period under regulation G4(7) and (8).

(3) No contributions shall be paid in respect of anyone to whom regulation E30(2)(a) (restriction of reckonable service to 45 years) has become applicable.

(4) For the purposes of this regulation—

(a) a local education authority shall be deemed to be the employer of every person employed in or in connection with a school maintained by it; and

(b) “relevant period” shall be construed in accordance with regulation G4(3).

Payment by employers to Secretary of State

G6.—(1) The employer of a teacher in pensionable employment shall pay to the Secretary of State, within 15 days after the end of each month—

(a) all amounts due from the teacher that are deductible from the teacher’s salary under regulation C14(1); and

(b) the contributions payable under regulation G5, in respect of the teacher’s contributable salary for that month.

(2) For the purposes of paragraph (1)—

(a) all salaries shall be treated as being payable monthly in arrears; and

(b) any arrears payable by reason of a retrospective increase in contributable salary shall be treated as having become payable in the month in which they were paid.

(3) If the full amount of any payment required by paragraph (1) is not received by the Secretary of State within 15 days after the end of the month, interest shall be payable by the employer on the amount outstanding at 12 per cent per annum, compounded with monthly rests, from the 16th day to the date of payment; but the Secretary of State may in any particular case waive the payment of interest.

PART H

MISCELLANEOUS AND SUPPLEMENTAL

Modified application in case of employment at reduced salary

H1.—(1) If—

(a) a teacher who has been in pensionable employment either—

(i) continues to be employed; or

(ii) ceases to be employed and is re-employed within 6 months,

by the same employer at a reduced rate of contributable salary; and

(b) the teacher does not elect under regulation C1(8) that his contributable salary is to be treated as having continued at the previous rate; and

(c) his employer notifies the Secretary of State in writing, within 13 weeks after the first day of his employment at the reduced rate, that his employment at that rate is in the interests of the efficient discharge of the employer’s functions; and

(d) the application to him of this paragraph would, taking into account prospective increases under the Pensions (Increase) Act 1971⁽³⁵⁾ of benefits under Part E, be beneficial, these Regulations have effect in relation to him with the modifications set out in Part II of Schedule 9.

(2) For the purposes of paragraph (1), the contributable salary of a person in part-time employment is to be taken to be what it would have been if the employment had been full-time.

(3) A second or subsequent application of paragraph (1) does not affect its previous operation.

Modified application in certain other cases

H2.—(1) In relation to a teacher who made an election under regulation 6A(1) of the 1977 Regulations, these Regulations have effect with the modifications set out in Part III of Schedule 9.

(2) In relation to a teacher who has been in pensionable employment with specified country service, these Regulations have effect with the modifications set out in Part IV of Schedule 9.

Records and information

H3.—(1) The employer of a teacher in pensionable employment shall record for each financial year—

- (a) the rate of the teacher's salary;
- (b) the amount of the teacher's contributable salary;
- (c) the value of any emoluments in kind treated as forming part of the salary of the teacher by virtue of regulation C1(1)(a)(i);
- (d) the contributions deducted under regulation C14(1);
- (e) the period during which the teacher was in pensionable employment; and
- (f) the dates of any absence on sick leave or maternity leave, and the amount of salary paid during it.

(2) Employers shall, within such reasonable time as he may require, make to the Secretary of State such reports and returns, and give to him such information about teachers who are or have been in pensionable employment, as he may reasonably require for the purposes of his functions under these Regulations; and such teachers, and their personal representatives, shall give him such information and produce such documents as he may reasonably require for those purposes.

Payments in respect of deceased persons

H4.—(1) This regulation applies where a teacher dies and the total of—

- (a) any sums that were due to the teacher under these Regulations; and
- (b) any sums payable under these Regulations to the teacher's personal representatives, ("the amount due") does not exceed the amount specified in any Order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965⁽³⁶⁾ and applying in relation to the death.

(2) Where this regulation applies, the Secretary of State may, without requiring confirmation or other proof of title, pay the amount due—

- (a) to the personal representatives; or

⁽³⁵⁾ 1971 c. 56.

⁽³⁶⁾ 1965 c. 32; the amount specified in S.I. 1984/539 is £5,000.

- (b) to the person, or to or among any one or more of any persons, appearing to him to be beneficially entitled to the estate.

Extension of Time

H5. The Secretary of State may in any particular case extend, or treat as having been extended, the time within which anything is required or authorised to be done under these Regulations.

Determination of questions

H6. All questions arising under these Regulations are to be determined by the Secretary of State and a determination by him is final.

Commutation of benefits

H7.—(1) Subject to paragraph (2), where the aggregate of the retiring allowances (retirement pensions and actuarial equivalent as an annual pension of the retirement lump sum) and any benefits payable to a teacher under any additional voluntary contributions scheme to which section 591(2)(h) or section 592(1)(b) of the Taxes Act applies is an annual amount not exceeding the permitted maximum, the Secretary of State may discharge his liability in respect of—

- (a) those retiring allowances; and
- (b) any family benefits which might otherwise become payable on the teacher's death under these Regulations if the annual amount of the family benefits do not exceed the permitted maximum,

by payment of a lump sum representing the capital value of the retiring allowances and family benefits.

(2) Paragraph (1) shall not apply unless the teacher became entitled to receive payment of the retiring allowances on or after attaining state pensionable age.

(3) Where a teacher has died and the aggregate of any family benefits, and like benefits provided under an additional voluntary contributions scheme, payable in respect of the teacher is an annual amount not exceeding the permitted maximum, the Secretary of State may discharge his liability in respect of the family benefits by the payment of a lump sum representing their capital value.

(4) The lump sum payable under paragraph (1) or (3) shall be determined by, or in accordance with tables prepared by, the Government Actuary.

(5) In this regulation the permitted maximum is £104 or such higher amount as may be prescribed from time to time by Regulations made under paragraph 15(4) of Schedule 16 to the Social Security Act 1973⁽³⁷⁾ and section 39(1) of the Pensions Act.

(6) In this regulation “additional voluntary contributions scheme” means an approved scheme which falls within section 591(2)(h) of the Taxes Act.

Revocations, savings and transitional provisions

H8.—(1) The Regulations specified in Part I of Schedule 13 are revoked.

(2) The revocations have effect subject to the savings in Part II of Schedule 13.

(3) The provisions of Part II of Schedule 13 do not effect the general operation of section 16 of the Interpretation Act 1978⁽³⁸⁾ (general savings to be implied on a revocation).

⁽³⁷⁾ 1973 c. 38; paragraph 15(4) of Schedule 16 was amended by the Social Security Act 1989 (c. 24), Schedule 6, paragraph 4(c).
⁽³⁸⁾ 1978 c. 30.

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

(4) Part III of Schedule 13 has effect with respect to transitional matters in connection with the coming into force of these Regulations.

St. Andrew's House,
Edinburgh
13th February 1992

Michael B. Forsyth
Minister of State, Scottish Office

We consent,

17th February 1992

Gregory Knight
Nicholas Baker
Two of the Lords Commissioners of Her
Majesty's Treasury