
STATUTORY INSTRUMENTS

1992 No. 280

The Teachers' Superannuation (Scotland) Regulations 1993

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(1) 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
- (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have made an application in writing to the Secretary of State for payment of a transfer value and not subsequently withdrawn it in accordance with paragraph (9).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 -

(1) 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..

- (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(2) 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,

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

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.