
STATUTORY INSTRUMENTS

1998 No. 718 (S.36)

EDUCATION, SCOTLAND

**The Teachers' Superannuation (Scotland)
Amendment Regulations 1998**

<i>Made</i>	- - - -	<i>4th March 1998</i>
<i>Laid before Parliament</i>		<i>24th March 1998</i>
<i>Coming into force</i>	- -	<i>15th April 1998</i>

The Secretary of State, in exercise of the powers conferred on him by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972⁽¹⁾ and of all other powers enabling him in that behalf, after consulting with representatives of education authorities and of teachers and with such representatives of other persons likely to be affected by the Regulations as appear to him to be appropriate in accordance with section 9(5) of that Act, and with the consent of the Treasury⁽²⁾, hereby makes the following Regulations:

Citation, commencement and effect, and interpretation

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Scotland) Amendment Regulations 1998.

(2) These Regulations shall come into force on 15th April 1998 and shall have effect—

- (i) for the purposes of regulations 6, 7, 10, 13, 18(a), 24 and 25 as from 6th April 1997; and
- (ii) for all other purposes as from the date of coming into force of these Regulations.

(3) In these Regulations, “the 1992 Regulations” means the Teachers' Superannuation (Scotland) Regulations 1992⁽³⁾.

Amendment of 1992 Regulations

2. The 1992 Regulations shall be amended in accordance with the following provisions of these Regulations.

(1) 1972 c. 11; section 9 was amended by sections 4(1), 8(3) and (4) and 11 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) and section 12 was amended by section 10 of that Act.
(2) See S.I.1981/1670.
(3) S.I. 1992/280; amended by S.I. 1992/1025 and 1597, 1993/490 and 2513, 1994/1715 and 2699, 1995/840 and 1670 and 1997/676.

Salary on which contributions are payable

3. In regulation C1, paragraphs (8) to (13) shall be deleted.

Salary on which contributions are payable – election

4. After regulation C1 there shall be inserted the following regulation:–

“Salary on which contributions are payable – election

C1A.—(1) A teacher who–

- (a) continues in pensionable employment but whose contributable salary is reduced, otherwise than by reason of sick leave or maternity leave, and who satisfies the conditions in paragraph (2); or
- (b) leaves pensionable employment with one employer (“employer A”) and–
 - (i) takes up employment again with employer A, or
 - (ii) takes up employment with another employer (“employer B”)

at a lower contributable salary and who satisfies the conditions in paragraph (3), may make an election that his salary is to be treated as having continued at the rate specified in paragraph (4).

(2) The conditions referred to in paragraph (1)(a) are–

- (a) that on the date when the contributable salary was reduced the teacher had attained the age of 50;
- (b) that on that date he had been in pensionable employment or excluded employment for at least five years; and
- (c) that the responsibility of his post after the reduction in contributable salary is lower than the responsibility of any of the posts which he had held during the period of five years immediately preceding the date of the reduction in contributable salary.

(3) The conditions referred to in paragraph (1)(b) are–

- (a) that on the date of leaving pensionable employment with employer A the teacher had attained the age of 50;
- (b) that on that date he had been in pensionable employment or excluded employment for at least five years;
- (c) that the responsibility of his new post with employer A or, as the case may be, his post with employer B is lower than the responsibility of any of the posts which he had held during the period of five years immediately preceding the date on which he left employment with employer A as described in paragraph (1);
- (d) that employer A notifies the Secretary of State that the teacher has provided satisfactory service during the period of five years referred to in sub-paragraph (c) or, where he has been employed by employer A for less than five years, during the period when he was employed by employer A; and
- (e) that no more than one year had elapsed between leaving pensionable employment with employer A as described in paragraph (1) and taking up pensionable employment again with employer A or, as the case may be, taking up pensionable employment with employer B.

(4) The rate of salary referred to in paragraph (1) is–

- (a) where the teacher falls within paragraph (1)(a) and is employed in full-time service after the reduction in contributable salary, the rate applicable immediately before the reduction;
- (b) where the teacher falls within paragraph (1)(b) and is re-employed in full-time service with employer A, or is employed in full-time service with employer B, the rate applicable immediately before he left employment with employer A as described in paragraph (1);
- (c) where the teacher falls within paragraph (1)(a) and is employed in part-time service after the reduction in contributable salary, the rate which would have been applicable immediately before the reduction if he had been employed for the same number of hours or for the same proportion of the year, term, month or week, as the case may be, as he is employed immediately after the reduction; and
- (d) where the teacher falls within paragraph (1)(b) and is employed in part-time service at the start of his re-employment with employer A or his employment with employer B, the rate which would have been applicable immediately he left his employment with employer A as described in paragraph (1) if he had been employed for the same number of hours or for the same proportion of the year, term, month or week, as the case may be, as he is employed at the start of his re-employment with employer A or, as the case may be, his employment with employer B,

increased, in each case, on each increase day by

$$\frac{(RI - RE)}{RE}$$

where—

RI is the retail prices index for the month in which the increase day occurs; and

RE is the retail prices index for the month in which the election was made.

(5) For the purposes of paragraph (4) the increase day is the first day of the month in each year following the month in which—

- (a) the salary was reduced, in a case where the teacher falls within paragraph (1)(a), or
- (b) the teacher left his employment with employer A as described in paragraph (1) in a case where the teacher falls within paragraph (1)(b),

and the first increase day is that falling in the year after the year in which the salary was reduced or the teacher left his employment with employer A, as the case may be.

(6) An election for the purposes of paragraph (1)—

- (a) must be made by giving written notice to the Secretary of State before the date which is three months after—
 - (i) the reduction in salary, in a case where the teacher falls within paragraph (1)(a); or
 - (ii) taking up employment again with employer A or, as the case may be, taking up employment with employer B, in a case where the teacher falls within paragraph (1)(b);

or before 15th July 1998, whichever date is later;

(b) has effect from—

- (i) the day after the last day on which the teacher's salary was payable at the rate applicable immediately before the reduction in contributable salary, in a case where the teacher falls within paragraph (1)(a); or

- (ii) the day on which the teacher takes up employment again with employer A or, as the case may be, takes up employment with employer B, in a case where the teacher falls within paragraph (1)(b); and
- (c) subject to paragraph (7), continues to have effect until the teacher ceases to be in pensionable employment unless he—
 - (i) elects to pay additional contributions under regulations C8 or C8A; or
 - (ii) takes up pensionable employment with another employer (“employer C”) within six months of ceasing to be in pensionable employment.
- (7) An election for the purposes of paragraph (1) may be cancelled by giving written notice to the Secretary of State at any time.
- (8) Notice of cancellation—
 - (a) has effect from the first day of the month following that in which it was received; and
 - (b) is irrevocable.
- (9) If, while an election made for the purposes of paragraph (1) has effect, there is any further reduction in salary during a period of sick leave or maternity leave, the rate of salary specified in paragraph (4) is, during that period, to be treated as having been reduced in the same proportion as the actual rate.
- (10) In paragraphs (1)(a) and (1)(b) the reference to contributable salary is, in the case of a teacher employed in part-time service, a reference to the salary which would have been the teacher’s contributable salary if the teacher had been in full-time service.
- (11) In this regulation “the retail prices index” means the index of retail prices published by the Office for National Statistics.”.

Ordinary contributions

- 5. In regulation C2, after paragraph (1) there shall be inserted the following paragraph:—
 - “(1A) A teacher who has made an election under regulation C1A(1) shall, in addition to the contributions referred to in paragraph (1), pay contributions of the required percentage of the difference between the teacher’s actual contributable salary and the contributable salary at the rate referred to in regulation C1A(4) to the extent that such contributions are not paid by any employer referred to in regulation G9A under an election mentioned in that regulation.”.

Overriding provision as to guaranteed minimum pension

- 6. In regulation E1—
 - (a) in paragraph (2) after the words “If a teacher has” there shall be inserted the words “, in relation to employment before 6th April 1997,”; and
 - (b) in paragraph (3) for the words from “in the tax years” to the end there shall be substituted the words “for the period beginning with the tax year 1988-89 and ending with the tax year 1996-97, be increased in accordance with the requirements of section 109 of the Pension Schemes Act 1993(4)”.

Revaluation of guaranteed minimum in certain cases

- 7. For regulation E2 there shall be substituted—

(4) 1993 c. 48; amended by section 55 of the Pensions Act 1995 (c. 26).

- “E2.—(1) This regulation applies where—
- (a) a teacher has ceased to be employed in reckonable service; and
 - (b) the guaranteed minimum in relation to his pension is appropriately secured (within the meaning of section 19 of the Pension Schemes Act 1993).
- (2) The earnings factors of such a teacher shall be determined for the purposes of section 14(2) of that Act—
- (a) by reference to the last order under section 21 of the Social Security Pensions Act 1975⁽⁵⁾ or section 148 of the Social Security Administration Act 1992⁽⁶⁾ to come into force before the end of the tax year in which he ceased to be a pensionable employee; and
 - (b) without reference to the last such order to come into force before the end of the final relevant year.
- (3) The weekly equivalent mentioned in section 14(2) of the Pension Schemes Act 1993 shall be increased by at least the prescribed percentage for each relevant year after the end of the tax year in which he ceased to be a pensionable employee and in accordance with such additional requirements as may be prescribed for the purposes of section 16(3)(7) of that Act.
- (4) In this regulation—
- “relevant year” and “final relevant year” have the meanings given respectively in sections 14(8)⁽⁸⁾ and 16(5) of the Pensions Schemes Act 1993;
 - “prescribed percentage” has the meaning given in regulation 62 of the Occupational Pension Schemes (Contracting-out) Regulations 1996⁽⁹⁾.”

Withdrawal of incapacity pensions

8. In regulation E14A⁽¹⁰⁾, after the words “employment which would be pensionable but for” there shall be inserted the words “regulation B5(5)⁽¹¹⁾ (exclusion from pensionable employment),”.

Forfeiture of benefits

9. In regulation E18(1)(c), after the words “pensionable employment” there shall be inserted the words “or excluded employment”.

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

10. In regulation E26(7)(a), for the words “the tax year 1988/89 and subsequent tax years” there shall be substituted the words “the tax years 1988/89 to 1996/97 inclusive”.

Pensionable salary

11. For regulation E29, there shall be substituted—

(5) 1975 c. 60; section 21 was repealed by the Social Security (Consequential Provisions) Act 1992 (c. 6), section 3(1) and Schedule 1.

(6) 1992 c. 5.

(7) 1993 c. 48; section 16(3) was amended by the Pensions Act 1995 (c. 26), Schedule 5, paragraph 28.

(8) Section 14(8) was amended by the Pensions Act 1995, Schedule 5, paragraph 27.

(9) S.I. 1996/1172; amended by S.I. 1996/1977 and 1997/786 and 819.

(10) Regulation E14A was inserted by S.I. 1997/676.

(11) Regulation B5(5) was inserted by S.I. 1997/676.

“Pensionable salary

E29.—(1) Subject to paragraph (13), 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) In determining, for the purposes of paragraph (1), what are the best consecutive 365 days of the material part of the teacher’s terminal service, days on which the teacher is not in pensionable employment are disregarded.

(3) Terminal service comprises—

- (a) any period spent by the teacher in pensionable employment;
- (b) any period counting as reckonable service by virtue of regulation D4 (current added years purchased by additional contributions);
- (c) any period of comparable British service which began before 1st April 1974 and has not been followed by a period of pensionable employment and for which a transfer value has been accepted;
- (d) subject to paragraph (4), any period of a kind described in paragraphs 5 to 8 of Schedule 8; and
- (e) any period counting as reckonable service by virtue of regulation C8A (service in a reserve force).

(4) 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.

(5) An election under paragraph (4)—

- (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.

(6) The material part of a teacher’s terminal service is—

- (a) where he has less than three years of such service, the whole of it; or
- (b) in any other case, the last three years of it.

(7) In determining the material part of a teacher’s terminal service, periods when the teacher was not in pensionable employment shall be disregarded and accordingly the period of three years referred to in paragraph (6) may be discontinuous.

(8) For the purposes of paragraphs (2), (3)(a) and (7) a teacher who is employed under a contract whereby that teacher is available for work but only undertakes (and accordingly is only paid for) work when, and for periods, requested by the employer is not treated as being in pensionable employment during periods when he is not undertaking work (whether or not such a teacher would be so treated apart from this paragraph).

(9) Subject to paragraphs (10) and (11), a teacher’s full salary—

- (a) for a period falling within paragraph (3)(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 (3)(b), is the notional salary by reference to which the additional contributions paid under regulation C8 or C8A were calculated; and

- (c) for a period falling within paragraph (3)(c), is what would have been his salary for the purpose of calculating benefits under the pension scheme to which he was subject in the relevant employment;
- (d) for a period falling within paragraph (3)(d), 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; and
- (e) for the period falling within paragraph (3)(e), is the notional salary by reference to which the additional contributions paid under regulation C8A were calculated.

(10) For–

- (a) a period of pensionable employment; or
- (b) a period counting as reckonable service by virtue of regulation D4,

beginning after 31st July 1975 and ending before 1st August 1978, a teacher’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⁽¹²⁾.

(11) For–

- (a) a period of pensionable employment; or
- (b) a period counting as reckonable service by virtue of regulation D4,

beginning after 31st March 1979 and ending before 1st September 1980, a teacher’s full salary is the notional salary resulting from the application to him of the Teachers’ Superannuation (Notional Salaries) (Scotland) Regulations 1982⁽¹³⁾.

(12) Where a teacher has during the material part of his terminal service spent any period employed in part-time service, the full salary for that period shall be the amount which it would have been if the employment had been in full-time service during that period.

(13) 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.”.

Interest on late payment of certain benefits

12. In regulation E31A⁽¹⁴⁾–

- (a) for paragraph (3) there shall be substituted–

“(3) For the purposes of paragraph (1) the due date, in a case where a benefit does not consist of a single payment, is the last day of the month in which entitlement to the benefit took effect.”; and

- (b) paragraph (4) shall be deleted.

Payment of transfer values

13. In regulation F1(11), for sub-paragraph (a) there shall be substituted–

- “(a) the date six months after the guarantee date”.

⁽¹²⁾ 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, 1977/1294.

⁽¹³⁾ S.I. 1982/1302.

⁽¹⁴⁾ Regulation E31A was inserted by S.I. 1997/676.

Alternative actuarial inquiry as at 31st March 1996

14. In regulation G7(15), the last paragraph shall be re-numbered “(11)”.

Employers' contributions – employees' elections under regulation C1A

15. After regulation G9(16) there shall be inserted the following regulation:–

“Employers' contributions – employees' elections under regulation C1A

G9A.—(1) In this regulation “employer A”, “employer B” and “employer C” have the same meaning as in regulation C1A(1)(b) and (6)(c).

(2) Where a teacher who falls within regulation C1A(1)(a) has made an election under regulation C1A(1), the teacher’s employer may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by that employer.

(3) Where a teacher who falls within regulation C1A(1)(b) has made an election under regulation C1A(1), either employer A or employer B may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by employer A or employer B, as the case may be.

(4) Where a teacher who has made an election under regulation C1A(1) ceases to be in pensionable employment in circumstances where–

- (a) his election continues to have effect by virtue of regulation C1A(6)(c)(ii); and
- (b) an election has been made under paragraph (2) or under paragraph (3) by employer B; and
- (c) the employer who made the election does not confirm that election under paragraph (7)(a)(ii),

employer C may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by employer C.

(5) In paragraphs (2) and (3) “the contribution deficit” means contributions of the required percentage of the difference between the teacher’s actual contributable salary and his contributable salary at the rate referred to in regulation C1A(4).

(6) An election for the purposes of paragraph (2), (3) or (4)–

- (a) must be made by giving written notice to the Secretary of State;
- (b) has effect–
 - (i) in the case of an election under paragraph (2) or (3), from the date on which the teacher’s election under regulation C1A(1) has effect, or from the end of the month in which the election was made, whichever is the later; and
 - (ii) in the case of an election under paragraph (4), from the date on which the teacher takes up employment with employer C or from the end of the month in which the election was made, whichever is the later;

(c) shall state whether the employer elects to pay the whole of the contribution deficit or a proportion of it and if so what that proportion is; and

(d) is irrevocable.

(7) An election made under paragraph (2), under paragraph (3) by employer B or under paragraph (4) ceases to have effect–

(15) Regulation G7 was inserted by S.I. [1997/676](#).

(16) Regulation G9 was inserted by S.I. [1997/676](#).

- (a) in the case of an election under paragraph (2) or (3), if the teacher ceases to be employed by the employer who made the election unless—
 - (i) the teacher elects to pay additional contributions under regulation C8A; or
 - (ii) by virtue of regulation C1A(6)(c)(ii) the teacher’s election does not cease to have effect and the employer confirms the election before the date on which the teacher takes up employment with the new employer; and
 - (b) in the case of an election under paragraph (4), if the teacher ceases to be employed by the employer who made the election unless he elects to pay additional contributions under regulation C8A.
- (8) An election made under paragraph (3) by employer A ceases to have effect if the teacher ceases to be in pensionable employment unless he—
- (a) elects to pay additional contributions under regulation C8A, or
 - (b) takes up pensionable employment with another employer within six months of ceasing to be in pensionable employment.
- (9) Where, in relation to a teacher who falls within regulation C1A(1)(b)—
- (a) there are at any time elections by both employer A and employer B, or, as the case may be, both employer A and employer C; and
 - (b) if both elections were fully effective their combined effect would be that more than the contribution deficit would be paid to the Secretary of State,
- the election by employer B or, as the case may be, employer C shall have full effect but the election by employer A shall have effect only to the extent of the difference (if any) between the contribution deficit and the amount which is the subject of the election by employer B or employer C.”.

Payment by employers to Secretary of State

16. In regulation G10(17)–

- (a) for paragraph (1) there shall be substituted—

“(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);
 - (b) the contributions payable under old regulation G5 or regulation G9; and
 - (c) the contributions payable in pursuance of an election under regulation G9A, in respect of the teacher’s contributable salary for that month.”; and
- (b) after paragraph (1) there shall be inserted the following paragraphs:–

“(1A) Where the former employer (referred to in regulations C1A(1) and G9A as “employer A”) of a teacher in pensionable employment has made an election under regulation G9A(3), that employer shall pay to the Secretary of State within 15 days after the end of each month the contributions payable in pursuance of the election.

(1B) Where an employer has elected under regulation C3(2A) to pay additional contributions in respect of a teacher, payment to the Secretary of State of the lump sum referred to in paragraph 9(1) of Schedule 4 shall be made within the period referred to in paragraph 9(2) of that Schedule.”.

Modified application in case of employment at reduced salary

17. For regulation H1 there shall be substituted—

“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 by the same employer, or
 - (ii) ceases to be employed and is re-employed within six months (whether by the same or a different employer)
 at a reduced rate of contributable salary; and
- (b) where he continues to be employed by the same employer, is employed in a different post; and
- (c) he does not make an election under regulation C1A(1) that his contributable salary is to be treated as having continued at the previous rate; and
- (d) the relevant employer notifies the Secretary of State in writing of the matters specified in paragraph (2) before—
 - (i) the date which is three months after the first day of his employment at the reduced rate, or
 - (ii) 15th July 1998,
 whichever is the later; and
- (e) the application to him of this paragraph would, taking into account prospective increases under the Pensions (Increase) Act 1971 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)(d) the matters which are to be notified to the Secretary of State are—

- (a) where the teacher continues to be employed with the same employer or ceases to be employed and is re-employed by the same employer, that the teacher’s employment at a reduced rate of contributable salary is in the interests of the efficient discharge of the employer’s functions; and
 - (b) where the teacher ceases to be employed by one employer and is re-employed by a different employer—
 - (i) that the teacher had provided satisfactory service throughout the period of the teacher’s employment with the relevant employer; and
 - (ii) that the teacher had ceased employment with the relevant employer with the intention of seeking employment in a new post with less responsibility.
- (3) For the purposes of this regulation—
- (a) the contributable salary of a teacher in part-time service is to be taken to be what it would have been if he had been employed in full-time service; and
 - (b) the “relevant employer” is—
 - (i) where the teacher ceases to be employed by one employer and takes up employment with a different employer, the teacher’s former employer; and
 - (ii) in any other case, the teacher’s employer.

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

Glossary of expressions

18. In Schedule 1–

(a) after the definition of “Full-time service” there shall be inserted–

““Guarantee date”	Shall be construed in accordance with section 93A((18) of the Pension Schemes Act 1993.”
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(b) after the definition of “Regular employment” there shall be inserted–

““Required percentage”	Shall be construed in accordance with regulation G9.”
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Additional contributions to purchase past added years

19. In Part I of Schedule 4 (“Method A”)–

- (a) for Table 1 there shall be substituted Table 1 in the Schedule to these Regulations; and
- (b) for Table 2 there shall be substituted Table 2 in the Schedule to these Regulations.

20. In Part II of Schedule 4 (“Method B”), for Table 3 there shall be substituted Table 3 in the Schedule to these Regulations.

21. In Part III of Schedule 4 (“Method C”)–

- (a) for Table 4 there shall be substituted Table 4 in the Schedule to these Regulations; and
- (b) for Table 5 there shall be substituted Table 5 in the Schedule to these Regulations.

Incomplete payment of additional contributions

22. In Schedule 7, after paragraph 2 there shall be inserted the following paragraph:—

“**3.**—(1) Subject to sub-paragraph (5), this paragraph applies where a teacher paying additional contributions for a past period in accordance with Part III of Schedule 4–

- (a) ceases to be in full-time pensionable employment before the end of the contribution period; and
- (b) does not again enter such employment within one month and before becoming entitled to payment of retiring allowances,

and no lump sum payment is made under paragraph 15 of Schedule 4.

(2) Subject to sub-paragraph (4), the teacher is entitled to count as reckonable service–

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

where–

A is the past period,

B is the contribution period, and C is so much of the contribution period as had elapsed when the pensionable employment ended.

- (3) This sub-paragraph applies where—
- (a) when the pensionable employment ended the teacher was incapacitated and had not attained the age of 60; or
 - (b) he died while in the pensionable employment; or
 - (c) he dies within three months after the end of the pensionable employment without having made an election under paragraph 15 of Schedule 4.
- (4) Where sub-paragraph (3) applies—
- (a) if when the pensionable employment ended at least one year of the contribution period had elapsed, the teacher is entitled to count the whole of the past period as reckonable service; and
 - (b) in any other case, he is not entitled to count any period as reckonable service and the additional contributions paid are to be refunded.
- (5) This paragraph also applies where an election in respect of which additional contributions for a past period were paid by a teacher in accordance with Part III of Schedule 4 is revoked in accordance with regulation C3(13), but in this case references to the end of pensionable employment shall be read as references to the first day of the month following the date on which revocation of that election was accepted by the Secretary of State.”.

Actuarial tables for early retirement

23. In Table 1 in Schedule 9A (early retirement factors – pensions), for the figure “0.837” applicable to the age of 57 years 11 months there shall be substituted the figure “0.873”.

Transfer values

- 24.** In Part I of Schedule 11—
- (a) in paragraph 1—
 - (i) for the words “material date”, wherever they appear, there shall be substituted the words “guarantee date”;
 - (ii) in sub-paragraph (1)(a) the words from “less a sum” to “those rights” shall be deleted; and
 - (iii) in sub-paragraph (1)(b) for the words “regulation 4(4)(a) of the Occupational Pension Schemes (Transfer Values) Regulations 1985” there shall be substituted the words “regulation 10(2) of the Occupational Pension Schemes (Transfer Values) Regulations 1996(19)”;
 - (b) in paragraph 4—
 - (i) in sub-paragraph (b) after the words “guaranteed minimum pensions” and in sub-paragraph (c) after the words “guaranteed minimum pension” there shall be inserted the words “or his accrued right so far as attributable to service in contracted-out employment on or after 6th April 1997”; and
 - (ii) for the words from “of a state scheme premium” to the end there shall be substituted the words “sufficient to meet the liability in respect of the teacher’s and his widow’s or, as the case may be, her widower’s pensions being guaranteed pensions or

pensions so far as attributable to service in contracted-out employment on or after 6th April 1997 and that person's protected rights".

25. In Part IV of Schedule 11, in paragraph 14—

(a) sub-paragraphs (e) and (f) shall be deleted; and

(b) there shall be added the following sub-paragraph:—

“(g) “protected rights” has the same meaning as in section 10 of the Pensions Schemes Act 1993(20).”.

Right to opt out

26.—(1) This regulation shall apply in the case of any person (“a relevant beneficiary”) to whom any benefit is or may become payable, being a benefit (“a relevant benefit”) being paid or which may become payable under the 1992 Regulations to or in respect of a teacher who before 15th April 1998—

(a) ceased to be in pensionable employment; or

(b) died while still in such employment.

(2) If, in relation to a relevant benefit, a relevant beneficiary—

(a) would be placed in a worse position than he would have been in if a provision made by these Regulations (“the relevant provision”) had not applied in relation to the relevant benefit, and

(b) so elects, by notice in writing given to the Secretary of State before 15th October 1998,

then, in relation to that benefit, the 1992 Regulations shall have effect as if the relevant provision had not been applied to the relevant benefit.

(3) If an election under paragraph (2) is made in relation to a relevant benefit of a teacher who is in pensionable employment or who subsequently becomes re-employed in pensionable employment—

(a) the election shall have effect in relation to a relevant benefit only to the extent that it accrues or has accrued by virtue—

(i) of periods of reckonable service before the cessation referred to in paragraph (1) (or, if there had been more than one cessation, the last of them before 15th April 1998); or

(ii) of contributions paid in respect of such periods of reckonable service; and

(b) in determining entitlement to, or to the amount of, the benefit to that extent he shall be treated as if he had never re-entered pensionable employment again at any time after the cessation referred to in paragraph (1) (but without prejudice to the application of this paragraph),

and the 1992 Regulations shall apply accordingly.

St Andrew's House,
Edinburgh
26th February 1998

Brian Wilson
Minister of State, Scottish Office

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

We consent

4th March 1998

Graham Allen
Jim Dowd
Two of the Lords Commissioners of Her
Majesty's Treasury

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

<i>Contribution period (in years)</i>	<i>Percentage contribution in respect of each year of past period when notice of election given</i>
46	81.09
47	80.94
48	80.80
49	80.64
50	80.48
51	80.32
52	80.16
53	80.00
54	79.84
55	79.68
56	79.52
57	79.36
58	79.20
59	79.04
60	78.88
61	78.72
62	78.56
63	78.40
64	78.24
65	78.08
66	77.92
67	77.76
68	77.60
69	77.44
70	77.28
71	77.12
72	76.96
73	76.80
74	76.64
75	76.48
76	76.32
77	76.16
78	76.00
79	75.84
80	75.68
81	75.52
82	75.36
83	75.20
84	75.04
85	74.88
86	74.72
87	74.56
88	74.40
89	74.24
90	74.08
91	73.92
92	73.76
93	73.60
94	73.44
95	73.28
96	73.12
97	72.96
98	72.80
99	72.64
100	72.48

TABLE 2

<i>Years remaining in contribution period</i>	<i>Multiplier</i>
1	0.989
2	1.956

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<i>Years remaining in contribution period</i>	<i>Multiplier</i>
3	2.902
4	3.827
5	4.732
6	5.617
7	6.482
8	7.328
9	8.156
10	8.965

TABLE 3

<i>Age on date of election</i>	<i>Percentage</i>
under 23	21.08
23	20.71
24	20.38
25	20.08
26	19.71
27	19.38
28	18.93
29	18.52
30	18.14
31	17.79
32	17.47
33	17.44
34	17.41
35	17.38
36	17.45
37	17.52
38	17.66
39	17.81
40	17.96
41	18.11
42	18.27
43	18.48
44	18.69
45	18.91

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<i>Age on date of election</i>	<i>Percentage</i>
46	19.12
47	19.34
48	19.64
49	19.94
50	20.24
51	20.54
52	20.85
53	21.22
54	21.61
55	22.01
56	22.45
57	22.92
58	23.45
59	24.03
60	24.73
61	24.29
62	23.85
63	23.39
64	22.93
65	22.46
66	21.99
67	21.49
68	21.00
69	20.51

TABLE 4

<i>Range within which relevant rate of interest falls</i>	<i>Contribution period in years and multiplier</i>				
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
5.00 – 5.49	0.0857	0.0443	0.0305	0.0236	0.0195
5.50 – 5.99	0.0859	0.0446	0.0308	0.0239	0.0197
6.00 – 6.49	0.0861	0.0448	0.0310	0.0241	0.0200
6.50 – 6.99	0.0864	0.0450	0.0312	0.0243	0.0202

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<i>Range within which relevant rate of interest falls %</i>	<i>Contribution period in years and multiplier</i>				
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
7.00 – 7.49	0.0866	0.0452	0.0314	0.0246	0.0204
7.50 – 7.99	0.0868	0.0454	0.0317	0.0248	0.0207
8.00 – 8.49	0.0870	0.0457	0.0319	0.0250	0.0209
8.50 – 8.99	0.0873	0.0459	0.0321	0.0253	0.0211
9.00 – 9.49	0.0875	0.0461	0.0323	0.0255	0.0214
9.50 – 9.99	0.0877	0.0463	0.0326	0.0257	0.0216
10.00 – 10.49	0.0879	0.0466	0.0328	0.0260	0.0219
10.50 – 10.99	0.0882	0.0468	0.0330	0.0262	0.0221
11.00 – 11.49	0.0884	0.0470	0.0333	0.0264	0.0224
11.50 – 11.99	0.0886	0.0472	0.0335	0.0267	0.0226
12.00 – 12.49	0.0888	0.0474	0.0337	0.0269	0.0228
12.50 – 12.99	0.0890	0.0477	0.0340	0.0271	0.0231
13.00 – 13.49	0.0893	0.0479	0.0342	0.0274	0.0233
13.50 – 13.99	0.0895	0.0481	0.0344	0.0276	0.0236
14.00 – 14.49	0.0897	0.0483	0.0347	0.0279	0.0238
14.50 – 14.99	0.0899	0.0486	0.0249	0.0281	0.0241
15.00 – 15.49	0.0902	0.0488	0.0351	0.0284	0.0243
15.50 – 15.99	0.0904	0.0490	0.0354	0.0286	0.0246
16.00 – 16.49	0.0906	0.0492	0.0356	0.0288	0.0249
16.50 – 16.99	0.0908	0.0495	0.0358	0.0291	0.0251
17.00 – 17.49	0.0910	0.0497	0.0361	0.0293	0.0254
17.50 – 17.99	0.0913	0.0499	0.0363	0.0296	0.0256
18.00 – 18.49	0.0915	0.0501	0.0365	0.0298	0.0259
18.50 – 18.99	0.0917	0.0504	0.0368	0.0301	0.0261
19.00 – 19.49	0.0919	0.0506	0.0370	0.0303	0.0264
19.50 – 19.99	0.0921	0.0508	0.0372	0.0306	0.0267

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TABLE 5

<i>Range within which relevant rate of interest falls</i>	<i>Contribution period in years and multiplier</i>									
<i>%</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>
5.00 – 5.49	0.0857	0.0442	0.0304	0.0235	0.0194	0.0166	0.0147	0.0132	0.0121	0.0112
5.50 – 5.99	0.0859	0.0444	0.0306	0.0237	0.0196	0.0169	0.0149	0.0135	0.0124	0.0115
6.00 – 6.49	0.0861	0.0446	0.0308	0.0239	0.0198	0.0171	0.0152	0.0137	0.0126	0.0117
6.50 – 6.99	0.0864	0.0448	0.0310	0.0242	0.0200	0.0173	0.0154	0.0140	0.0129	0.0120
7.00 – 7.49	0.0866	0.0451	0.0313	0.0244	0.0203	0.0176	0.0156	0.0142	0.0131	0.0123
7.50 – 7.99	0.0868	0.0453	0.0315	0.0246	0.0205	0.0178	0.0159	0.0145	0.0134	0.0125
8.00 – 8.49	0.0870	0.0455	0.0317	0.0248	0.0208	0.0180	0.0161	0.0147	0.0136	0.0128
8.50 – 8.99	0.0873	0.0457	0.0319	0.0251	0.0210	0.0183	0.0164	0.0150	0.0139	0.0131
9.00 – 9.49	0.0875	0.0460	0.0322	0.0253	0.0212	0.0185	0.0166	0.0152	0.0142	0.0133
9.50 – 9.99	0.0877	0.0462	0.0324	0.0255	0.0215	0.0188	0.0169	0.0155	0.0144	0.0136
10.00 – 10.49	0.0879	0.0464	0.0326	0.0258	0.0217	0.0190	0.0171	0.0158	0.0147	0.0139
10.50 – 10.99	0.0882	0.0466	0.0328	0.0260	0.0219	0.0193	0.0174	0.0160	0.0150	0.0142
11.00 – 11.49	0.0884	0.0468	0.0331	0.0262	0.0222	0.0195	0.0177	0.0163	0.0153	0.0144
11.50 – 11.99	0.0866	0.0471	0.0333	0.0265	0.0224	0.0198	0.0179	0.0166	0.0155	0.0147
12.00 – 12.49	0.0888	0.0473	0.0335	0.0267	0.0227	0.0200	0.0182	0.0168	0.0158	0.0150
12.50 – 12.99	0.0890	0.0475	0.0338	0.0270	0.0229	0.0203	0.0184	0.0171	0.0161	0.0153

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<i>Range within which relevant rate of interest falls</i>	<i>Contribution period in years and multiplier</i>									
<i>%</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>
13.00 – 13.49	0.0893	0.0477	0.0340	0.0272	0.0232	0.0205	0.0187	0.0174	0.0164	0.0156
13.50 – 13.99	0.0895	0.0480	0.0342	0.0274	0.0234	0.0208	0.0190	0.0177	0.0167	0.0159
14.00 – 14.49	0.0897	0.0482	0.0345	0.0277	0.0237	0.0211	0.0192	0.0179	0.0169	0.0162
14.50 – 14.99	0.0899	0.0484	0.0347	0.0279	0.0239	0.0213	0.0195	0.0182	0.0172	0.0165
15.00 – 15.49	0.0902	0.0486	0.0349	0.0282	0.0242	0.0216	0.0198	0.0185	0.0175	0.0168
15.50 – 15.99	0.0904	0.0489	0.0352	0.0284	0.0244	0.0218	0.0201	0.0188	0.0178	0.0171
16.00 – 16.49	0.0906	0.0491	0.0354	0.0286	0.0247	0.0221	0.0203	0.0191	0.0181	0.0174
16.50 – 16.99	0.0908	0.0493	0.0356	0.0289	0.0249	0.0224	0.0206	0.0193	0.0184	0.0177
17.00 – 17.49	0.0910	0.0495	0.0359	0.0291	0.0252	0.0226	0.0209	0.0196	0.0187	0.0180
17.50 – 17.99	0.0913	0.0498	0.0361	0.0294	0.0254	0.0229	0.0212	0.0199	0.0190	0.0183
18.00 – 18.49	0.0915	0.0500	0.0363	0.0296	0.0257	0.0232	0.0214	0.0202	0.0193	0.0186
18.50 – 18.99	0.0917	0.0502	0.0366	0.0299	0.0259	0.0234	0.0217	0.0205	0.0196	0.0189
19.00 – 19.49	0.0919	0.0504	0.0368	0.0301	0.0262	0.0237	0.0220	0.0208	0.0199	0.0192
19.50 – 19.99	0.0921	0.0507	0.0370	0.0304	0.0265	0.0240	0.0223	0.0211	0.0202	0.0196

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further amendments to the Teachers Superannuation (Scotland) Regulations 1992 (S.I.1992/280) (“the 1992 Regulations”).

Regulation 1(2) provides for regulations 6, 7, 10, 13, 18(a), 24 and 25 to have retrospective effect from 6th April 1997. Retrospection is authorised by section 12(1) of the Superannuation Act 1972.

Regulation 4 inserts provisions (regulation C1A) whereby a teacher who is aged 50 or over, whether in full-time or part-time employment, whose salary is reduced or who takes up employment with a new employer at a reduced salary may, if the teacher satisfies certain conditions, elect to pay contributions at the previous rate of salary uprated by the retail prices index. These replace the previous regulation C1(8) to (13) which is deleted by regulation 3. The old provisions were not constrained by age, did not index-link the former salary and did not apply upon a change of employer.

Regulation 5 amends regulation C2 of the 1992 Regulations so that, where an election is made under regulation C1A, the teacher must pay employers' contributions on the difference between the old and new rates of salary, unless the employer or former employer elects to pay such contributions under regulation G9A.

Regulations 6 and 7 amend regulation E1 and replace regulation E2 respectively in relation to guaranteed minimum pensions to ensure that the 1992 Regulations comply with the new contracting-out regime which came into force on 6th April 1997. Regulation 10 amends regulation E26(7)(a) in relation to the change whereby a guaranteed minimum pension is payable only in respect of tax years up to and including 1996/97. This provision also ensures that the 1992 Regulations comply with the new contracting-out regime.

Regulation 8 amends regulation E14A (withdrawal of incapacity pensions), so that an incapacity pension is also withdrawn if a teacher returns to employment which would have been pensionable but for regulation B5(5). That latter provision prevents someone from re-entering the teachers' superannuation scheme as a contributor while in receipt of a pension.

Regulation 9 extends the provisions of regulation E18 of the 1992 Regulations so that pension benefits can be deferred, suspended or reduced where a teacher is convicted of certain types of offence not only in connection with pensionable employment but also in connection with employment which would have been pensionable had the teacher not exercised his right to opt out of the teachers' superannuation scheme.

Regulation 11 (which re-enacts with modifications regulation E29 of the 1992 Regulations) amends the provisions for determining a teacher's pensionable salary, with the effect that for pensionable salary purposes regular part-time employment counts in the same way as full-time employment. Pensionable salary is to be calculated by reference to the salary for the best consecutive 365 days of pensionable employment (rather than reckonable service) during the last three years of pensionable employment (rather than reckonable service). The principal change made is that periods of reckonable service which are not pensionable employment are disregarded.

Regulation 12 amends regulation E31A to clarify the due date. Interest is payable if certain benefits are not paid within one month of that date.

Regulation 13 amends regulation F1(11)(a) to comply with the Pensions Act 1995. The change provides that one of the dates by which a transfer value must be paid by the Secretary of State is a date six months after the guarantee date (rather than a date which is 12 months from the date on which application is received by the Secretary of State).

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Regulations 15 and 16 are linked to regulation 4, and insert new provisions whereby a teacher's employer, or in certain cases former employer, may elect to pay all or part of the contribution deficit of a teacher who has made an election under new regulation C1A to pay contributions on a previously higher salary. The contribution deficit means employers' contributions on the difference between the old and new rates of salary, which would otherwise be paid by the teacher himself. Regulation 16 also provides for the relevant payment to be made to the Secretary of State, where an employer has elected to purchase past added years on behalf of a teacher.

Regulation 17 re-enacts with modifications regulation H1 of the 1992 Regulations and provides that in certain cases where a teacher's salary is reduced the Regulations have effect subject to certain modifications set out in Part II of Schedule 9. The principal change is to extend this provision to apply to certain cases where a teacher leaves employment with one employer and takes up employment with a new employer at a reduced salary.

Regulations 19, 20 and 21 introduce revised actuarial factors relating to the purchase of past added years. The revised factors take account of recent financial, economic and demographic conditions and trends.

Regulation 22 re-instates paragraph 3 of Schedule 7.

Regulations 24 and 25 introduce amendments to Schedule 11 consequential upon the Pensions Act 1995 and the Occupational Pensions Schemes (Transfer Values) Regulations 1996.

Any other amendments not specifically mentioned are minor or consequential.

Regulation 26 provides for a right to opt out of the amendments for a person to whom a benefit is or may become payable, if that person is placed in a worse position than he would be in if the amendments had not been made and the benefit is payable to or in respect of a person who had left employment before the date on which these Regulations come into force or who had died before that date.