STATUTORY INSTRUMENTS

1963 No. 2111 (S. 117)

NATIONAL INSURANCE

The National Insurance (Modification of Teachers Superannuation) (Scotland) Regulations 1963

Made - - - -	18*th December* 1963
Laid before Parliament	30*th December* 1963
Coming into Operation	6*th January* 1964

Whereas the Treasury has determined under section 69(4) of the National Insurance Act 1946(a) that the Secretary of State is the appropriate Minister to make regulations under that section to modify the provisions of the Teachers (Superannuation) (Scotland) Regulations 1957(b) and other instruments relating to the superannuation of teachers employed in connection with education in Scotland:

Now therefore in exercise of the powers conferred on me by the said section 69(4), as extended by section 15 of the National Insurance Act 1959(c), and of all other powers enabling me in that behalf I hereby make the following Regulations: —

Citation and commencement

1. These Regulations may be cited as the National Insurance (Modification of Teachers Superannuation) (Scotland) Regulations 1963 and shall come into operation on 6th January 1964.

Interpretation

2.—(1) In these Regulations—

(*a*) "Act of 1959" means the National Insurance Act 1959;

(*b*) "the Regulations of 1957" mean the Teachers (Superannuation) (Scotland) Regulations 1957;

(*c*) the following expressions shall have the meanings respectively which they have for the purposes of the Act of 1959—

"graduated retirement benefit"

"non-participating employment"

"payment in lieu of contributions";

(*d*) "participating employment" means any employment in respect of which a person is liable to pay graduated contributions under the Act of 1959 or would be liable to pay such contributions if his remuneration exceeded the amount mentioned in section 1(1)(*b*) of that Act.

(2) The Interpretation Act 1889(d) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(a) 9 & 10 Geo. 6. c. 67.
(b) S.I. 1957/356 (1957 I, p. 733).
(c) 7 & 8 Eliz. 2. c. 47.
(d) 52 & 53 Vict. c. 63.

(3) In the application to these Regulations of the Interpretation Act 1889 section 38 of that Act (which relates to the effect of repeals) shall have effect as if any regulations revoked by these Regulations were an enactment thereby repealed.

(4) Reference in these Regulations to the provisions of any enactment, regulations or other instrument shall, unless the context otherwise requires, be construed as references to those provisions, regulations or other instrument as amended, modified or applied by any subsequent enactment, regulations or other instrument, including these Regulations.

Modification of the Education (Scotland) Act 1962

3.—(1) The provisions of section 107 of the Education (Scotland) Act 1962(a) and Schedule 6 to that Act (which provide for the keeping of a teachers superannuation account) shall have effect, subject to the modification that expenditure in respect of payments in lieu of contributions made under the Act of 1959 shall be included in the teachers superannuation account in such manner as may be determined by the Secretary of State after consultation with the Treasury.

(2) In paragraph 31 of Part II of Schedule 3 to the Education (Scotland) Act 1962 for the words "the National Insurance Acts 1946 to 1959" there shall be substituted the words "the National Insurance Acts 1946 to 1963".

(3) The following table shall be substituted for the table which is set out in Schedule 5 to the Education (Scotland) Act 1962 and which relates to reductions in the amounts payable by the teacher and his employer in respect of any period of service which is participating employment:—

Annual rate of salary	Annual rate of reduction of contributions
	£ s. d.
Up to £468	Nil
Over £468 but not exceeding £520	8 0
Over £520 „ „ „ £572	1 5 0
Over £572 „ „ „ £624	2 2 0
Over £624 „ „ „ £676	2 19 0
Over £676 „ „ „ £728	3 16 0
Over £728 „ „ „ £780	4 13 0
Over £780 „ „ „ £832	5 10 0
Over £832 „ „ „ £884	6 7 0
Over £884 „ „ „ £936	7 4 0
Over £936	7 13 0

Modifications of the Teachers (Superannuation) (Scotland) Regulations 1957

4. The following proviso shall be added to Regulation 20(3) of the Regulations of 1957 (which relates to the retirement of teachers to whom Part III of the Regulations applies):—

"Provided that notwithstanding the ending of payment of the pension there shall in respect of first class service after 5th January 1964 which

(a) 10 & 11 Eliz. 2. c. 47.

is non-participating employment within the meaning of the National Insurance Act 1959 be payable to the teacher from the age of sixty-five, in the case of a man, and from the age of sixty, in the case of a woman, a pension of an amount not less than the graduated retirement benefit which would be payable in terms of section 8(1)(*d*) of that Act."

5. The following Regulation shall be inserted in the Regulations of 1957 after Regulation 22 thereof:—

"22A.—(1) Except as in this Regulation provided, the pension payable under Regulation 21 to a teacher who has attained the age of sixty-five years, if a man, or sixty years, if a woman, and in the calculation of whose pension there has been taken into account either—

(*a*) any period of participating employment after 5th January 1964 during which salary was at a rate exceeding £936 a year, or

(*b*) any period after 5th January 1964 in respect of which a payment in lieu has been made under the National Insurance Act 1959—

shall be reduced for each year of such period, and proportionately for part of a year, by £3·48, in the case of a man, and by £2·9 in the case of a woman.

(2) Except as in this Regulation provided, the pension payable under Regulation 21 to a teacher who has attained the age of sixty-five years, if a man, or sixty years, if a woman, and in the calculation of whose pension there has been taken into account any period of participating employment after 5th January 1964 during which salary was at a rate not exceeding £936, shall be reduced, for each year of such period and proportionately for part of a year, by the appropriate amount specified in column (2) of Schedule 7 opposite to the salary rate of the teacher in the year.

(3) Where—

(*a*) in respect of a teacher a period of participating employment or a period in respect of which a payment in lieu of contributions has been made under the National Insurance Act 1959 is reckoned as first class service by virtue of rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(**a**) or of Regulations made under either section 67(1) of the National Health Service Act 1946(**b**) or of section 66(1) of the National Health Service (Scotland) Act 1947(**c**) and

(*b*) the Secretary of State is informed of the amount by which his pension under the pension scheme to which he was subject before ceasing the former employment would have been reduced in connection with the operation of the National Insurance Act 1959 by reason of that period if the former employment had continued, or of the method of calculating such reduction—

the amount of any pension payable to that teacher from the age of sixty-five, in the case of a man, or from the age of sixty, in the case of a woman, shall be reduced by that amount or by an amount calculated in accordance with that method, as the case may be, and no reduction shall be made under the provisions of paragraphs (1) or (2) of this Regulation in respect of that period.

(a) 11 & 12 Geo. 6. c. 33. (b) 9 & 10 Geo. 6. c. 81. (c) 10 & 11 Geo. 6. c. 27.

(4) No reduction in the amount of a pension shall be made under paragraphs (1) or (2) of this Regulation in respect of any period which is deemed to be first class service under the provisions of Regulation 9 (which relates to periods of experience of value to teachers) or Regulation 12 (which relates to breaks in service)."

6. Regulation 27 of the Regulations of 1957 (which provides for the return of contributions to teachers to whom Part III of the Regulations applies) shall be modified as follows :—

(*a*) The following paragraph shall be inserted after paragraph (4)—

" (4A) For the purposes of computing the sum repayable under either of the last two foregoing paragraphs to a teacher in respect of whom a payment in lieu of contributions has been made under the National Insurance Act 1959 the amount recoverable under section 10 of that Act shall be deemed to have been deducted from his contributions on the date on which, disregarding any special arrangements of the kind referred to in Regulation 18(6) of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations 1960(**a**), the payment in lieu of contributions became due."

(*b*) In paragraph (5) the words " under either paragraph (3) or paragraph (4) of this Regulation " shall be substituted for the words " under either of the last two foregoing paragraphs ".

7. The following proviso shall be added to Regulation 28 of the Regulations of 1957 (which provides for the return of contributions to the personal representatives of teachers to whom Part III of the Regulations applies) :—

" Provided that if a payment in lieu of contributions has been made under the National Insurance Act 1959 in respect of the teacher, for the purposes of computing the sum payable to his personal representative under this Regulation the amount recoverable under section 10 of that Act shall be deemed to have been deducted from his contributions on the date on which, disregarding any special arrangements of the kind referred to in Regulation 18(6) of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations 1960, the payment in lieu of contributions became due."

8. The following proviso shall be substituted for proviso (ii) to Regulation 30(3) of the Regulations of 1957 (which relates to the resumption of service by retired teachers) :—

" (ii) where the teacher's pension has been reduced as provided in Regulation 22 or Regulation 22A the pension as so reduced shall be taken into account."

9. The following paragraph shall be inserted after Regulation 37(2) of the Regulations of 1957 (which relates to the calculation of balance of contributions) :—

" (2A) Where a payment in lieu of contributions has been made under the National Insurance Act 1959 in respect of the teacher, in computing the balance of contributions repayable to the teacher or, as the case may be, payable to his personal representatives, the amount recoverable under section 10 of that Act shall be deemed to have been deducted from his contributions on the date on which, disregarding any special arrangements of the kind referred to in Regulation 18(6) of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations 1960, the payment in lieu of contributions became due."

(**a**) S.I. 1960/1103 (1960 II, p. 2244).

10. The following proviso shall be added to Regulation 40(3) of the Regulations of 1957 (which provides for allowances on retirement through infirmity) :—

"Provided that notwithstanding the ending of payment of the pension there shall in respect of first class service after 5th January 1964 which is non-participating employment within the meaning of the National Insurance Act 1959 be payable to the teacher from the age of sixty-five, in the case of a man, and from the age of sixty, in the case of a woman, a pension of an amount not less than the graduated retirement benefit which would be payable in terms of section 8(1)(*d*) of that Act."

11. The following paragraph shall be inserted after Regulation 41(5) of the Regulations of 1957 (which relates to the calculation of retiring allowances) :—

"(5A) Where under paragraph (4) or paragraph (5) of this Regulation a period of first class service after 5th January 1964 which is non-participating employment within the meaning of the National Insurance Act 1959, is not taken into account or is disregarded in the calculation of a retiring allowance, there shall be paid to the teacher a pension of an amount not less than the graduated retirement benefit which would be payable in terms of section 8(1)(*d*) of that Act."

12. The following Regulation shall be inserted in the Regulations of 1957 after Regulation 42 thereof :—

"42A.—(1) Except as in this Regulation provided, the pension payable under Regulation 41 to a teacher who has attained the age of sixty-five years, if a man, or sixty years, if a woman, and in the calculation of whose pension there has been taken into account either—

(*a*) any period of participating employment after 5th January 1964 during which salary was at a rate exceeding £936 a year, or

(*b*) any period after 5th January 1964 in respect of which a payment in lieu has been made under the National Insurance Act 1959—

shall be reduced for each year of such period and proportionately for part of a year by £3·48, in the case of a man, and by £2·9 in the case of a woman.

(2) Except as in this Regulation provided, the pension payable under Regulation 41 to a teacher who has attained the age of sixty-five years, if a man, or sixty years, if a woman, and in the calculation of whose pension there has been taken into account any period of participating employment after 5th January 1964 during which salary was at a rate not exceeding £936, shall be reduced for each year of such period and proportionately for part of a year, by the appropriate amount specified in column (2) of Schedule 7 opposite to the salary rate of the teacher in the year.

(3) Where—

(*a*) in respect of a teacher a period of participating employment or a period in respect of which a payment in lieu of contributions has been made under the National Insurance Act 1959 is reckoned as first class service by virtue of rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 or of Regulations made under either section 67(1) of the National Health Service Act 1946 or section 66(1) of the National Health Service (Scotland) Act 1947, and

(*b*) the Secretary of State is informed of the amount by which his pension under the pension scheme to which he was subject before ceasing the former employment would have been reduced in connection with the operation of the National Insurance Act 1959 by reason of that period if the former employment had continued or of the method of calculating such reduction—

the amount of any pension payable to that teacher from the age of sixty-five, in the case of a man, or from the age of sixty, in the case of a woman, shall be reduced by that amount or by an amount calculated in accordance with that method, as the case may be, and no reduction shall be made under paragraphs (1) or (2) of this Regulation in respect of that period.

(4) No reduction in the amount of a pension shall be made under paragraphs (1) or (2) of this Regulation in respect of any period which is deemed to be first class service under the provisions of Regulation 9 (which relates to periods of experience of value to teachers), Regulation 12 (which relates to breaks in service) or is treated as first class service under the provisions of the Teachers' Pensions (National Service) (Scotland) Rules 1952(a)."

13. For Regulation 44(2) of the Regulations of 1957 (which relates to the amount of pension that may be surrendered) there shall be substituted the following:—

"(2) A teacher shall not surrender—

(*a*) an amount of the pension granted or to be granted to him which is not an exact number of pounds ; or

(*b*) so much of the pension granted or to be granted to him as would make the part thereof, as reduced by the amount surrendered which is in respect of first class service after 5th January 1964 which was non-participating employment within the meaning of the National Insurance Act 1959, less than the graduated retirement benefit which would be payable in terms of section 8(1)(*d*) of that Act ; or

(*c*) more than one third of the pension granted or to be granted to him before any deductions are made therefrom in pursuance of regulations made under section 69(4) of the National Insurance Act 1946, or under that section as extended by section 15 of the National Insurance Act 1959 ; or

(*d*) so much of the pension granted or to be granted to him as would make the amount of the said pension as reduced by any such deductions as aforesaid and by the amount surrendered less than the amount of pension payable to the beneficiary after the teacher's death ; or

(*e*) a smaller amount of the pension granted or to be granted to him than would secure for the beneficiary after the death of the teacher a pension equal to one quarter of the amount of the pension as reduced by any such deductions as aforesaid and by the amount surrendered."

14. The following proviso shall be substituted for proviso (ii) to Regulation 54(6) of the Regulations of 1957 (which relates to the pensions of teachers resuming service) :—

"(ii) where the teacher's pension has been reduced as provided in Regulation 42 or Regulation 42A the pension as so reduced shall be taken into account."

(a) S.I. 1952/518 (1952 I, p. 928).

15. The following proviso shall be added to Regulation 56 of the Regulations of 1957 (which provides for refusal or reduction of benefits):—

"Provided that no refusal or reduction of a retiring allowance shall be made in pursuance of this Regulation which would result in the teacher receiving, in respect of first class service after 5th January 1964 which is non-participating employment within the meaning of the National Insurance Act 1959, a pension of an amount less than the graduated retirement benefit which would be payable in terms of section 8(1)(*d*) of that Act."

16. The Schedule set forth in the Schedule to these Regulations shall be added at the end of the Regulations of 1957.

Revocation

17. The National Insurance (Modification of Teachers Superannuation) (Scotland) (No. 1) Regulations 1961(a) and the National Insurance (Modification of Teachers Superannuation) (Scotland) (No. 2) Regulations 1961(b) are hereby revoked.

Michael Noble,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
18th December 1963.

SCHEDULE

SCHEDULE ADDED TO THE REGULATIONS OF 1957

Regulation 22A and 42A

Seventh Schedule

REDUCTION IN PENSIONS

Annual rate of salary during period (1)	Reduction in pension for each whole year of period (2)	
	Men £	Women £
Up to £468	Nil	Nil
Over £468 but not exceeding £520	·19	·16
Over £520 „ „ „ £572	·58	·48
Over £572 „ „ „ £624	·96	·80
Over £624 „ „ „ £676	1·35	1·12
Over £676 „ „ „ £728	1·73	1·44
Over £728 „ „ „ £780	2·12	1·76
Over £780 „ „ „ £832	2·51	2·09
Over £832 „ „ „ £884	2·90	2·42
Over £884 „ „ „ £936	3·29	2·74

(a) S.I. 1961/324 (1961 I, p. 515). (b) S.I. 1961/504 (1961 I, p. 1139).

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations modify certain provisions of the Education (Scotland) Act 1962 relating to teachers' superannuation and the Teachers (Superannuation) (Scotland) Regulations 1957 in connection with the operation of the provisions of the National Insurance Acts 1959 to 1963.

The Regulations provide for:—

(1) the payments in lieu of contributions required in terms of section 7 of the National Insurance Act 1959 to be chargeable to the Teachers Superannuation Account, and for the exercise of the power given to employers under section 10 of the Act to recover half of a payment in lieu from a repayment of contributions;

(2) superannuation contributions payable by teachers and their employers under the Teachers Superannuation Scheme to be reduced during periods of participating employment;

(3) the reduction of pensions payable under the Teachers Superannuation Scheme where any service reckonable for the pension also qualifies the teacher for graduated retirement benefit under the Act of 1959;

(4) pension benefits equivalent to those which would have been payable under the graduated scheme in respect of any period of first class service which was non-participating employment to be payable to a man teacher on attaining the age of 65 and to a woman teacher on attaining the age of 60 who was in receipt of a pension awarded on grounds of infirmity notwithstanding the termination of the infirmity pension.

The Regulations also provide that, where that part of a teacher's pension which is in respect of non-participating employment falls to be reduced, because service has been counted both for that pension and for another pension paid for out of public funds or because the teacher's retirement has been accelerated by misconduct or because the teacher has allocated part of his pension in favour of a beneficiary, the amount remaining after the reduction shall not be less than the maximum graduated National Insurance pension which would have been payable if the employment had not been non-participating employment.