The Teachers' Pensions (National Insurance Modifications) (Scotland) Regulations, 1948

1948 No. 944 (S. 67)

Made - - - -	1st *May*, 1948
Laid before Parliament	5*th May*, 1948
Coming into Operation	15*th May*, 1948

Whereas the Treasury have determined under subsection (4) of section 69 of the National Insurance Act, 1946(**a**), that the Secretary of State is the appropriate Minister to make regulations under that subsection for modifying the provisions of the Education (Scotland) Act, 1946(**b**), the Education (Scotland) (War Service Superannuation) Act, 1939(**c**), the Superannuation Scheme for Teachers (Scotland), 1926(**d**) and other instruments relating to the superannuation of teachers employed in connection with education in Scotland:

Now therefore in the exercise of the powers conferred upon me by the said subsection and of all other powers enabling me in that behalf I hereby make the following regulations:—

Interpretation.

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

(*a*) "Scheme of 1919" means the Superannuation Scheme for Teachers in Scotland, dated the 5th day of June, 1919, and approved by His Majesty in Council on the 30th day of July, 1919(**e**);

(*b*) "Scheme of 1926" means the Superannuation Scheme for Teachers (Scotland), 1926.

(2) The Interpretation Act, 1889(**f**), applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) References in these Regulations to any enactment, scheme or other instrument shall, except where the context otherwise requires, be construed as references to the enactment, scheme or other instrument as amended by or under any other enactment, scheme or other instrument, including these Regulations.

Modification of Acts of Parliament

Reduction of contributions under the Education (Scotland) Act, 1946.

2. The following subsection shall be inserted in section one hundred and three of the Education (Scotland) Act, 1946, (which relates to contributions towards benefits under the Teachers Superannuation Scheme) after subsection (1) thereof:—

"(1A) Where the teacher is one to whom modifications of the said Scheme, made by regulations under subsection (4) of section sixty-nine of the National Insurance Act, 1946, apply, the amounts payable

(**a**) 9 & 10 Geo. 6. c. 67.
(**b**) 9 & 10 Geo. 6. c. 72.
(**c**) 2 & 3 Geo. 6. c. 96.
(**d**) S.R. & O. 1926 (No. 363) p. 449.
(**e**) S.R. & O. 1919 (No. 1105) I, p. 688.
(**f**) 52 & 53 Vict. c. 63.

by the teacher and by his employer under the last foregoing subsection after the date upon which the said modifications first applied to the teacher shall, unless the said Scheme otherwise requires, each be reduced by an amount calculated at the rate of two pounds, eight shillings a year in the case of contributions in respect of a teacher who is a man and at the rate of two pounds, nineteen shillings a year in the case of contributions in respect of a teacher who is a woman."

Additional provisions of Teachers Superannuation Scheme.

3. The following paragraph shall be added to Part II of the Third Schedule to the Education (Scotland) Act, 1946, (which contains a list of provisions to which the Teachers Superannuation Scheme may give effect):—

"14. for making modifications upon the Teachers Superannuation Scheme consequential upon the passing of the National Insurance Act, 1946."

Reduction of contributions under the Education (Scotland) (War Service Superannuation) Act, 1939.

4. The following subsection shall be inserted in section 3 of the Education (Scotland) (War Service Superannuation) Act, 1939, (which relates to contributions payable by certain teachers in respect of periods of war service) after subsection (1) thereof:—

"(1A) Where the teacher is one to whom modifications of the Superannuation Scheme for Teachers (Scotland), 1926, or the Superannuation Scheme for Teachers (Scotland), 1919, made by regulations under subsection (4) of section sixty-nine of the National Insurance Act, 1946, apply, the amount payable under the last foregoing subsection shall be reduced at the rate of three pounds, twelve shillings a year in the case of contributions in respect of a teacher who is a man, and at the rate of four pounds, eight shillings and sixpence a year in the case of contributions in respect of a teacher who is a woman."

Modification of the Scheme of 1926

Classification of Teachers in relation to National Insurance under Scheme of 1926.

5. The following article shall be inserted in the Scheme of 1926 after article 2 thereof:—

"2A.—(1) In connection with the passing of the National Insurance Act, 1946, the teachers to whom this Scheme applies shall be classified in three categories, and teachers shall belong to the said categories as follows, that is to say:—

(*a*) Teachers of the first category shall, subject to the provisions of this article, be those teachers who enter upon service for the first time on or after the first day of July, 1948, (hereinafter referred to as "the material date");

(*b*) Teachers of the second category shall, subject to the provisions of this article, be existing teachers who give notice in the manner prescribed in this article that they elect that the modifications of the Scheme, made by regulations under subsection (4) of section 69 of the National Insurance Act, 1946, (hereinafter referred to as "National Insurance modifications") shall apply to them, provided that it shall not be competent for an existing teacher who in pursuance of the provisions of paragraph (*a*) of subsection (3) of section 71 of the National Insurance Act, 1946, is deemed to attain pensionable age on the expiration of ten years from the appointed day for the purposes of those provisions to give such notice; and

(*c*) Teachers of the third category shall, subject to the provisions of this article, be existing teachers who do not give such notice.

(2) In this article the expression " existing teacher " means—

(*a*) a teacher who was employed in service at any time before the material date, including any period of service claims in respect of which have been restored to the teacher on repayment by him of contributions returned to him or would have been so restored had such repayment been made, but excluding any period of employment which is treated as service under article 3B of this Scheme; and

(*b*) a person who before the first day of March, 1948, had completed a course of training for teachers approved for the purpose of this article by the Secretary of State (hereinafter called " an approved course "), or was engaged on an approved course, or had been accepted or provisionally accepted for an approved course, or had applied to be accepted for and had as a result of that application subsequently become engaged on an approved course: provided that if any such person fails to enter upon service within six months after completing his approved course or within such longer period as the Secretary of State may allow in the case of that person, he shall at the expiration of that period cease to be an existing teacher, and any act which he may have performed by virtue of his being an existing teacher shall be deemed to have been void.

(3) An existing teacher in service on the material date shall remain of the third category unless he gives notice in the form prescribed in the First Schedule to this Scheme on or before the thirtieth day of September, 1948, or, if he was not in service on the material date, within three months after the date on which he first re-enters service after the material date, provided that the Secretary of State may, if he considers that there are reasonable grounds for so doing, extend the period within which notice may be given. Notice given under this paragraph shall be irrevocable.

(4) Where a person becomes employed in service within twelve months of ceasing to serve in the capacity of a civil servant and is entitled to have his service as a civil servant treated as service for the purposes of article 12 of this Scheme, he shall be—

(*a*) a teacher of the first category if he was subject to the modified scheme of superannuation as a civil servant; or

(*b*) a teacher of the second category if, being a person who was not subject to the modified scheme of superannuation as a civil servant, he gives notice (which shall be irrevocable) within three months after the date on which he becomes employed in service, in the form prescribed in the Second Schedule to this Scheme, provided that the Secretary of State may, if he considers that there are reasonable grounds for so doing, extend the period within which any person may give notice under this paragraph; or

(*c*) a teacher of the third category if, being a person of the description mentioned in the last foregoing sub-paragraph, he does not give such notice.

(5) Where a teacher enters service after the material date, being a teacher—

(*a*) to whom paragraph (1) (a) of article 12 of this Scheme applies in respect of employment in England and Wales or in Northern Ireland, and

(b) whose position has been determined in relation to modifications made, in connection with the passing of the National Insurance Act, 1946, or of any corresponding enactment for Northern Ireland, upon the scheme for the provision of pensions for teachers in England and Wales or in Northern Ireland as the case may be,

he shall on entering service belong to the category which in the opinion of the Secretary of State corresponds to his position in relation to the said modifications. Where his position has not been so determined, the provisions of paragraph (3) of this article shall apply to him as they apply to a teacher who was not in service on the material date.

(6) Where a person to whom the provisions of Part I of the National Health Service (Scotland) (Superannuation) Regulations, 1948(a), apply enters service and thereupon becomes subject to the provisions of paragraph (1) (c) of Regulation 45 of the said Regulations, he shall, if before the fifth day of July, 1948, he became subject to the modifications for which Regulation 30 of the said Regulations provides, be a teacher of the second category, and if he became so subject on or after the said date, of the first category.

(7) National Insurance modifications shall apply to a teacher of the second category as from the material date where notice is given before the said date, and as from the first day of the month following that in which notice is given in any other case, provided that where an existing teacher, being a voluntary contributor for an old age pension, gives notice before the material date, the said modifications shall apply to him as from the material date or the first day of the month following that in which the notice is given, whichever is the earlier."

Contributions in respect of service not previously recordable.

6. The following proviso shall be added to paragraph (3) of article 3B of the Scheme of 1926 (which relates to the recording of service not previously recordable in the case of teachers in service after the second day of July, 1945):—

" Provided that notwithstanding that the said teacher is a teacher of the first or second category, the said contributions shall not be reduced as provided in subsection (1A) of section 103 of the Education (Scotland) Act, 1946."

Reduction of annual allowances awarded under the Scheme of 1926.

7. The following article shall be inserted in the Scheme of 1926 after article 7 thereof:—

" 7A. The annual allowance payable under the last foregoing article to a teacher of the first or second category who has attained the age of sixty-five, if a man, or sixty, if a woman, shall be reduced as follows:—

(1) in the case of a teacher of the first category, for each completed year of service after the date upon which National Insurance modifications first applied to him, by the sum of one pound, fourteen shillings; and

(a) S.I. 1948 No. 412, p. 2478 below.

(2) in the case of a teacher of the second category, for each completed year of service after the date upon which National Insurance modifications first applied to him, by the sum set forth in the second or third column of the Third Schedule to this Scheme opposite to the age of the teacher on the said date, as set forth in the first column of the said Schedule:

Provided that—

(i) the total amount of the reduction shall in no case exceed sixty-seven pounds, fifteen shillings per annum;

(ii) in computing any reduction years of service beyond forty years shall be ignored;

(iii) any period of service in respect of which contributions are repaid to the teacher under article 22 of the Scheme of 1919 or article 14 or article 14A of this Scheme and are not subsequently repaid by him under article 14(2) of this Scheme shall be excluded;

(iv) where a teacher has been in employment which is treated as service for the purposes of article 12 of this Scheme and in service, and his period of service is reduced by a deduction prescribed in paragraph (2) of article 12 of this Scheme or in rule 16 of the Teachers' Superannuation Rules (Scotland), 1926(a), (which period as so reduced is herein called "the reduced period"), the period of service in respect of which his annual allowance shall be reduced under this article shall, if he is a teacher of the first category, be the reduced period, and if he is a teacher of the second category, be the reduced period less the period, if any, of his service before National Insurance modifications applied to him;

(v) any period of employment, war service or national service which is reckonable under Regulation 45 of the National Health Service (Scotland) (Superannuation) Regulations, 1948, as recordable service shall be similarly reckoned for the purposes of this article;

(vi) in applying the Third Schedule to this Scheme to a teacher to whom paragraph (4) or paragraph (5) or paragraph (6) of article 2A of this Scheme applies, the date when he first became subject to a scheme of superannuation modified under subsection (4) of section 69 of the National Insurance Act, 1946, shall be deemed to be the date when the National Insurance modifications first applied to him."

Special provision as to women teachers who marry.

8. The following article shall be inserted in the Scheme of 1926 after article 7A thereof:—

"7B. Where National Insurance modifications apply to a woman teacher, they shall continue to apply to that teacher notwithstanding that she marries and elects thereafter to qualify for retirement pension under the National Insurance Act, 1946, by virtue of her husband's insurance."

(a) S.R. & O. 1926 (No. 356) p. 460.

9. The following proviso shall be added to article 13B of the Scheme of 1926 (which relates to the re-employment of beneficiaries):— Reduction of allowances of re-employed pensioners.

" provided also that where National Insurance modifications apply to the said person, the allowance to be taken into account shall be the allowance reduced as provided in article 7A of this Scheme."

10. The following paragraph shall be added to article 16 of the Scheme of 1926 (which relates to the payment of contributions during breaks in service):— Contributions during breaks in service.

" (3) In relation to a period during which the service of a teacher was discontinued, being a period after the date upon which National Insurance modifications first applied to him, any reference in this article to a contribution shall be construed as a reference to a contribution reduced by an amount calculated at the rate of four pounds, sixteen shillings a year in the case of a teacher who is a man and at the rate of five pounds, eighteen shillings a year in the case of a teacher who is a woman."

11. The Schedules set forth in the Schedule to these Regulations shall be added at the end of the Scheme of 1926. Addition of Schedules to the Scheme of 1926.

Modification of Other Instruments

12. The following article shall be inserted in the Scheme of 1919 after article 2 thereof:— Classification of teachers in relation to National Insurance under Scheme of 1919.

" 2A.—(1) In connection with the passing of the National Insurance Act, 1946, the teachers to whom this Scheme applies shall be classified in two categories, and teachers shall belong to the said categories as follows, that is to say:—

(*a*) Teachers of the second category shall be those teachers who give notice in the manner prescribed in this article that they elect that the modifications of the Scheme, made by regulations under subsection (4) of section 69 of the National Insurance Act, 1946, (hereinafter referred to as " National Insurance modifications "), shall apply to them, provided that it shall not be competent for a teacher who in pursuance of the provisions of paragraph (*a*) of subsection (3) of section 71 of the National Insurance Act, 1946, is deemed to attain pensionable age on the expiration of ten years from the appointed day for the purposes of those provisions to give such notice; and

(*b*) Teachers of the third category shall be those teachers who do not give such notice.

(2) A teacher in service on the first day of July, 1948, (hereinafter referred to as " the material date "), shall remain of the third category unless he gives notice in the form prescribed in the First Schedule to this Scheme on or before the thirtieth day of September, 1948, or, if he was not in service on the material date, within three months after the date on which he first re-enters service after the material date, provided that the Secretary of State may, if he considers that there are reasonable grounds for so doing, extend the period within which notice may be given. Notice given under this paragraph shall be irrevocable.

(3) National Insurance modifications shall apply to teachers of the second category as from the material date where notice is given before the said date, and as from the first day of the month following that in which notice is given in any other case, provided that where a teacher, being a voluntary contributor for an old age pension, gives notice before the material date, the said modifications shall apply to him as from the material date or the first day of the month following that in which the notice is given, whichever is the earlier."

Reduction of annual allowances awarded under the Scheme of 1919.

13. The following article shall be inserted in the Scheme of 1919 after article 6 thereof:—

" 6A. The annual allowance payable under any of the last three foregoing articles to a teacher of the second category who has attained the age of sixty-five, if a man, or sixty, if a woman, shall, for each completed year of service after the date upon which National Insurance modifications first applied to him, be reduced by the sum set forth in the second or third column of the Second Schedule to this Scheme opposite to the age of the teacher on the said date, as set forth in the first column of the said Schedule:

Provided that—

(i) in computing any reduction years of service beyond forty years shall be ignored;

(ii) where a teacher has been in employment which is treated as service for the purposes of article 12 of this Scheme and in service, and his period of service is reduced by a deduction prescribed in rule 16 of the Teachers' Superannuation Rules (Scotland), 1926, (which period as so reduced is herein called " the reduced period "), the period of service in respect of which his annual allowance shall be reduced under this Article shall be the reduced period less the period, if any, of his service before National Insurance modifications applied to him."

Special provision as to women teachers who marry.

14. The following article shall be inserted in the Scheme of 1919 after article 6A thereof:—

" 6B. Where National Insurance modifications apply to a woman teacher, they shall continue to apply to that teacher notwithstanding that she marries and elects thereafter to qualify for retirement pension under the National Insurance Act, 1946, by virtue of her husband's insurance."

Reduction of allowances of re-employed pensioners.

15. The following proviso shall be added to paragraph (*b*) of article 13 of the Scheme of 1919 (which relates to the re-employment of beneficiaries):—

" provided also that where National Insurance modifications apply to the said person, the retiring allowance to be taken into account shall be the retiring allowance reduced as provided in article 6A of this Scheme."

Addition of Schedules to the Scheme of 1919.

16. The First and Third Schedules set forth in the Schedule to these Regulations shall, with the necessary modifications, be the First and Second Schedules respectively to the Scheme of 1919 and shall be added, as modified, at the end of the said Scheme.

Calculation of amount of pension which may be surrendered.

17. The following words shall be added at the end of rule 8 of the Teachers' Superannuation (Allocation of Pension) Rules (Scotland), 1937(a), (which relates to the amount of pension which a teacher may surrender)—

" In the case of a teacher to whom modifications made upon the Scheme by regulations under subsection (4) of section 69 of the National Insurance Act, 1946, apply, the word " pension " in paragraph (*a*) and where it first occurs in paragraph (*b*) of this rule means the annual retiring allowance as it would have been if it had not been reduced in accordance with the said modifications, and where it occurs for the first and third times in paragraph (*c*) means the annual retiring allowance reduced in accordance with the said modifications."

Apportionment of expenditure on allowances.

18. The following proviso shall be inserted at the end of paragraph 3 of the Education (Scotland) Superannuation Account Determination, 1944(b), (which relates to apportionment of expenditure on allowances between service before and since the first day of June, 1922)—

" Provided that where the annual allowance is reduced in accordance with modifications made upon the Superannuation Scheme for Teachers (Scotland), 1919, or the Superannuation Scheme for Teachers (Scotland), 1926, by regulations made under subsection (4) of section 69 of the National Insurance Act, 1946—

(*a*) The product to be obtained as provided in sub-paragraphs (*a*), (*b*), and (*c*) and the expenditure attributable to service before the first day of June, 1922, to be ascertained as provided in the said sub-paragraph (*c*) shall be obtained and ascertained as the case may be by treating any reference in those paragraphs to " an annual allowance " as a reference to the said annual allowance as it would have been if no such reduction had been made, and

(*b*) The expenditure attributable to service since the first day of June, 1922, shall be ascertained for the purposes of the said sub-paragraphs (*a*) and (*b*) by reducing the said product or the appropriate proportion of the product as the case may be by the amount or by an appropriate proportion of the amount by which the annual allowance is reduced in accordance with the said modifications."

Citation and commencement.

19. (1) These Regulations may be cited as the Teachers' Pensions (National Insurance Modifications) (Scotland) Regulations, 1948.

(2) These Regulations shall come into operation on the fifteenth day of May, 1948.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh.
1st May, 1948.

(a) S.R. & O. 1937 (No. 1193) p. 709.
(b) S.R. & O. 1944 (No. 1482) I, p. 1100.

SCHEDULE

Regulation 11.

SCHEDULES ADDED TO THE SCHEME OF 1926

FIRST SCHEDULE

Article 2A(3)

Prescribed form of notice to be given by an existing teacher that he desires National Insurance modifications of the provisions of the Education (Scotland) Act, 1946, and the Superannuation Scheme for Teachers (Scotland), 1926, and other instruments to apply to him.

I .....

Date of birth.....

Superannuation No.....

being an existing teacher within the meaning of article 2A of the Superannuation Scheme for Teachers (Scotland), 1926, hereby notify the Secretary of State that I desire to be classed as a teacher of the second category within the meaning of the said article. I understand that the modifications of the Education (Scotland) Act, 1946, the said Scheme and other instruments relating to the superannuation of teachers made by the Teachers' Pensions (National Insurance Modifications) (Scotland) Regulations, 1948, will apply to me, and that this notice is irrevocable.

Signed .....

Date .....

Address .....

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SECOND SCHEDULE

Article 2A(4)

Prescribed form of notice to be given by a person who becomes employed in service within twelve months of ceasing to serve in the capacity of a civil servant that he desires National Insurance modifications of the provisions of the Education (Scotland) Act, 1946, the Superannuation Scheme for Teachers (Scotland), 1926, and other instruments to apply to him.

I .....

Date of birth .....

Superannuation No.....

being a person who has become employed in service within the meaning of the Superannuation Scheme for Teachers (Scotland), 1926, within twelve months of ceasing to serve in the capacity of a civil servant and has not been subject to the modified scheme of superannuation as a civil servant, hereby notify the Secretary of State that I desire to be classed as a teacher of the second category within the meaning of article 2A of the said Scheme. I understand that the modifications of the Education (Scotland) Act, 1946, the said Scheme and other instruments relating to the superannuation of teachers made by the Teachers' Pensions (National Insurance Modifications) (Scotland) Regulations, 1948, will apply to me, and that this notice is irrevocable.

Signed .....

Date .....

Address .....

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THIRD SCHEDULE

Article 7A (2)

Reductions to be made in the annual superannuation allowances payable to teachers of the second category at the age of 65 in the case of men and 60 in the case of women.

Age of existing teacher at date of modification	Yearly reduction of annual superannuation allowance for each completed year of service after date of modification	
Column 1	Column 2 MEN	Column 3 WOMEN
	£ s. d.	£ s. d.
20 or under	1 14 0	1 14 0
1	1 13 0	1 12 0
2	1 12 0	1 10 6
3	1 11 0	1 9 0
4	1 10 0	1 7 6
25	1 9 6	1 6 0
6	1 9 0	1 4 6
7	1 8 6	1 3 6
8	1 8 0	1 2 6
9	1 7 0	1 1 6
30	1 6 6	1 0 6
1	1 6 0	19 6
2	1 5 6	19 0
3	1 5 0	18 6
4	1 4 6	18 0
35	1 4 0	17 6
6	1 3 6	17 0
7	1 3 0	16 6
8	1 2 6	16 0
9	1 2 0	15 6
40	1 1 6	15 0
1	1 1 6	14 6
2	1 1 0	14 6
3	1 0 6	14 0
4	1 0 0	14 0
45	19 6	13 6
6	19 0	13 0
7	19 0	13 0
8	18 6	12 6
9	18 6	12 6
50 and over	18 6	12 0

EXPLANATORY NOTE

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

Section 69 (4) of the National Insurance Act, 1946, enables Regulations to be made for modifying, in connection with the passing of that Act, any scheme for the provision of pensions. The foregoing Regulations modify the superannuation arrangements for Scottish teachers. All teachers who enter service for the first time on or after 1st July, 1948, (the first day of the month in which the National Insurance Act comes into full operation) will be subject to the modifications. Teachers in service before that date will have the right to elect whether to be subject to the modifications or not. The modifications provide for a reduction of the teacher's contribution payable under the Education (Scotland) Act, 1946, at the rate of £2 8s. a year in respect of men teachers and of £2 19s. a year in respect of women teachers. Similar reductions will be made from the employers' contributions. The annual retiring allowance payable to a man teacher on attaining the age of 65 and to a woman teacher on attaining the age of 60 will be reduced by a sum not exceeding £67 15s. calculated in accordance with the length of service of the teacher after the date when the modifications first applied to him.

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(2) SALARIES

The Teachers' Salaries (Scotland) Regulations, 1948

1948 No. 611 (S. 43)

Made - - - -	*24th March,* 1948
Laid before Parliament	*24th March,* 1948
Coming into Operation	*1st April,* 1948

In the exercise of the powers conferred upon me by section 79 of the Education (Scotland) Act, 1946(a), and of all other powers enabling me in that behalf, I hereby make the following Regulations:—

Interpretation.

1. In these Regulations, unless the context otherwise requires—

(1) " Approved " means approved by the Secretary of State;

(2) " Basic element " means that part of the salary of a teacher to which Regulation 3 of these Regulations applies or, if the teacher is entitled to no other payments under these Regulations, the whole of his salary;

(3) " Basic scale " means one of the scales set forth in Part I of the First Schedule annexed hereto, showing the rate of the basic element of the salary payable to any teacher in each successive service year;

(4) " Head of Department " includes the teacher in a department in which only one teacher is employed;

(5) " Head teacher " includes the teacher in a single-teacher school;

(6) " National Joint Council " means the National Joint Council to deal with Salaries of Teachers in Scotland constituted by agreement, dated April, 1944, or any subsequent agreement between the education authorities and the teachers employed by them;

(7) " Permanent staff " means staff employed under a contract of service which provides expressly or by implication for the termination of the employment on not less than one month's notice;

(a) 9 & 10 Geo. 6. c. 72.