STATUTORY INSTRUMENTS

1980 No. 1043

EDUCATION, ENGLAND AND WALES

The Teachers' Superannuation (Amendment) (No. 2) Regulations 1980

Made - - - -	21*st July* 1980
Laid before Parliament	30*th July* 1980
Coming into Operation	1*st September* 1980

The Secretary of State, in exercise of the powers conferred by sections 9 and 12 of the Superannuation Act 1972(**a**) and Schedule 3 thereto, after consulting with representatives of the local education authorities, teachers and other persons likely to be affected in accordance with section 9(5) of the said Act and with the consent of the Minister for the Civil Service, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Amendment) (No. 2) Regulations 1980.

(2) These Regulations shall come into operation on 1st September 1980 and shall have effect as from 1st April 1980.

2. In these Regulations a reference to the principal Regulations is a reference to the Teachers' Superannuation Regulations 1976(**b**).

3.—(1) This Regulation shall be construed as one with the principal Regulations and the reference in paragraph (2) to protected benefit is a reference to any benefit which is being paid or may become payable under the principal Regulations to or in respect of a teacher who is not employed in reckonable service on or after 1st September 1980 (including a teacher who died before that date).

(2) Where in relation to any protected benefit a person is placed in a worse position than that in which he would have been had the principal Regulations not been amended by these Regulations he may, by notice in writing given to the Secretary of State, elect that the principal Regulations shall have effect in relation to him as if these Regulations had not been made and, in such case, the principal Regulations shall so have effect.

(**a**) 1972 c. 11.
(**b**) S.I. 1976/1987. The relevant amending instrument is S.I. 1980/919.

4. For Regulation 10 of the principal Regulations (Modification for National Insurance) there shall be substituted the following Regulation:—

"*Modification for National Insurance*

10.—(1) This Regulation shall apply to a teacher with reckonable service before 1st April 1980.

(2) The provisions of Schedule 9 shall have effect in relation to such a teacher.".

5. For sub-paragraphs (*a*), (*b*) and (*c*) of paragraph 4 of Schedule 7 to the principal Regulations (transfer values) there shall be substituted the following provisions:—

"(*a*) if paragraph 3 of Schedule 9 applies to him, £1·70 for each year of his service before 1st April 1980;

(*b*) if paragraph 4, 6, 7 or 8 of that Schedule applies to him, the amount by which an annual allowance payable to him would fall to be reduced under the paragraph in question.".

6.—(1) In paragraph 6 of the said Schedule 7 (service reckonable where a transfer value is received) for the words "would enable" there shall be substituted the words "under these regulations as in force at the date the transfer value was received, would have enabled" and after the words "a transfer value" there shall be inserted the words "("the hypothetical transfer value")".

(2) For paragraph 7(*a*) of the said Schedule 7 there shall be substituted the following provisions:—

"(*a*) in the case of a teacher who, after ceasing to be subject to the superannuation scheme referred to in paragraph 6, first entered employment in reckonable service on or after 1st April 1980, the hypothetical transfer value shall be treated as one in respect of a former teacher whose annual allowance would not fall to be reduced under any provision of Schedule 9.

(*aa*) in the case of a teacher who so first entered employment in reckonable service before that date, the hypothetical transfer value shall be treated as one in respect of an existing teacher within the meaning of the Modification Regulations if, but only if, the teacher himself either—

(i) is entitled by virtue of the Modification Regulations to be treated as such an existing teacher, or

(ii) was formerly subject to a statutory superannuation scheme under which he was not subject to modification of superannuation benefits on account of flat-rate national insurance;

and in this sub-paragraph the expression "Modification Regulations" has the same meaning as in Schedule 9;".

7. Paragraph 2 Schedule 9 to the principal Regulations (reduction of superannuation contributions) is hereby revoked.

8. For paragraphs 3 and 4 of the said Schedule 9 (reduction of allowances) there shall be substituted the following provisions:—

"*Reduction of allowances*

3.—(1) An annual allowance payable in the case of a retired teacher who—

(*a*) by virtue of the Modification Regulations or of interchange rules was subject to the modifications of the Acts of 1918 to 1956 made by those regulations and applicable to new entrants within the meaning of those regulations; or

(*b*) not being an existing teacher within the meaning of the Modification Regulations or a teacher in whose case by virtue of interchange rules those regulations applied as they applied in the case of such an existing teacher, became employed in reckonable service after the commencement of these regulations,

shall be reduced by an amount calculated by multiplying £1·70 by his reckonable service on or after 1st July 1948 but before 1st April 1980, expressed in years and a fraction of a year.

(2) In the case of a retired teacher—

(*a*) who was last employed in reckonable service before 1st April 1980, and

(*b*) whose allowance is one to which he became entitled by virtue of regulation 53(1)(*c*),

any additional period of reckonable service taken into account under regulation 54(3) shall be deemed for the purposes of sub-paragraph (1) to be such service as is there mentioned.

(3) Where the retired teacher before 1st April 1980 elected for the purposes of regulation 24 to purchase added years, those added years shall be deemed for the purposes of sub-paragraph (1) to be such service as is there mentioned.

(4) Sub-paragraph (1) shall apply not only in the case of such a teacher as is there mentioned but also in the case of a retired teacher to whom paragraph 2(1) of this Schedule, as originally made, did not apply if the Secretary of State is satisfied that the contributions paid by him before 1st April 1980 were modified on the assumption that the said paragraph 2(1) did apply in his case; and regulation 72(1A)(*a*) shall not apply in respect of those contributions.

4.—(1) This paragraph applies to a retired teacher who—

(*a*) by virtue of the Modification Regulations or of interchange rules, was subject to the modifications of the Acts of 1918 to 1956 made by those regulations and applicable to existing teachers within the meaning of those regulations; or

(*b*) before 1st April 1980 paid contributions at a reduced rate by virtue of an election under paragraph 2(1)(*c*) of this Schedule, as originally made.

(2) An annual allowance payable to such a retired teacher shall be reduced in respect of his reckonable service after the relevant date but before 1st April 1980 by the amount calculated by multiplying by such reckonable service, expressed in years and a fraction of a year, the sum specified in

column 2 (or column 3 in the case of a woman) of the Table in the Appendix to this Schedule opposite his age at the date of modification for the purposes of the Modification Regulations.

(3) The relevant date for the purposes of sub-paragraph (2) is—

(*a*) in relation to a retired teacher to whom this paragraph applies by virtue of sub-paragraph (1)(*a*), the date which was in relation to him the date of modification for the purposes of the Modification Regulations; and

(*b*) in relation to a retired teacher to whom this paragraph applies by virtue of sub-paragraph (1)(*b*), the first day of the month next following that in which the election mentioned in that sub-paragraph was made.

(4) In the case of a retired teacher—

(*a*) who was last employed in reckonable service before 1st April 1980, and

(*b*) whose allowance is one to which he became entitled by virtue of regulation 53(1)(*c*),

any additional period of reckonable service taken into account under regulation 54(3) shall be deemed for the purposes of sub-paragraph (2) to be such service as is there mentioned.".

Mark Carlisle,
Secretary of State for
Education and Science.

17th July 1980.

Consent of the Minister for the Civil Service given under her Official Seal on 21st July 1980.

(L.S.)

W. G. Bristow,
Authorised by the Minister
for the Civil Service.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations amend the Teachers' Superannuation Regulations 1976 and have effect as from 1st April 1980; retrospection is authorised by section 12 of the Superannuation Act 1972. In accordance with section 12(4), Regulation 3 provides that the amendments shall not apply in the cases of certain persons who so elect.

The modifications relating to national insurance contained in the Regulations of 1976 are restricted to teachers with reckonable service before 1st April 1980 (*Regulation* 4) and amended so as to apply only in relation to such service. The provision for a reduction of superannuation contributions in the case of a teacher to whom modifications apply is revoked (*Regulation* 7). No account is to be taken of service on or after 1st April 1980 in calculating a reduction in an allowance (*Regulation* 8). Corresponding and consequential amendments are made to the provisions relating to the calculation of a transfer value payable in respect of a teacher (*Regulation* 5) and of service reckonable in consequence of the receipt of a transfer value (*Regulation* 6).