STATUTORY INSTRUMENTS

1978 No. 1512

EDUCATION, ENGLAND AND WALES

The Teachers' Superannuation (Amendment) (No. 3) Regulations 1978

Made - - - -	20*th October* 1978
Laid before Parliament	27*th October* 1978
Coming into Operation	1*st December* 1978

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 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. 3) Regulations 1978.

(2) These Regulations shall come into operation on 1st December 1978 and shall have effect:—

(*a*) for the purposes of Regulations 3(*c*) and 6 thereof, as from 1st January 1977;

(*b*) for the purposes of Regulations 3(*a*) and (*b*) and 4 thereof, as from 1st May 1978;

(*c*) for the purposes of Regulation 5 thereof, as from 1st December 1978.

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

3. In Regulation 3(1) of the principal Regulations (interpretation)—

(*a*) before the first definition there shall be inserted the following definition:—

" "accepted school" has the meaning assigned to it by regulation 6;";

(*b*) the definition of the expression "admitted school" shall be omitted;

(*c*) in the definition of the expression "previous provision" there shall be inserted after the word "means" the words "a provision contained in, or made under," and after the words "England and Wales" the word "and".

4. For Regulation 6 of the principal Regulations there shall be substituted the Regulation set out in the Appendix to these Regulations.

(a) 1972 c. 11. **(b)** S.I. 1976/1987.

(c) The amending instrument is not relevant to the subject matter of these Regulations.

5. For the definition of the expression "proprietor" in Regulation 6(5) of the principal Regulations, as amended by the preceding Regulation, there shall be substituted the following definition:—

" "proprietor" means a person who has a financial interest in an accepted school otherwise than by reason only of his being employed for the purposes thereof at a salary unrelated to the profits of the school or its other performance as a commercial enterprise.".

6. In paragraph 23 of Part 2 of Schedule 1 to the principal Regulations (employment which is reckonable service) after the words "full-time service with" there shall be inserted the words "or for purposes connected with,".

APPENDIX

Regulation Substituted for Regulation 6 of the Teachers' Superannuation Regulations 1976.

Service in independent schools and establishments of further education

6.—(1) Subject to their being accepted as hereinafter mentioned this regulation shall apply in relation to the following establishments, namely, any independent school—

(*a*) which is registered under section 70 of the Education Act 1944**(a)**, unless the registration is provisional only and application for registration was not made either at a time when it was exempt from registration as mentioned in sub-paragraph (*b*) or immediately following its ceasing to be such a school as is mentioned in paragraph 1, 2 or 3 of Schedule 1, or

(*b*) which is exempt from registration by reason of an order under subsection (2) of the said section 70,

and any establishment in which full-time employment as a teacher is not reckonable service by virtue of Regulation 4(2)(*a*), being an establishment of further education which is recognised by the Secretary of State as efficient or a nursery school which was so recognised immediately before 1st May 1978.

(2) Subject to paragraph (3), for the purposes of these regulations such an establishment as is referred to in paragraph (1) (whether an independent school, further education establishment or nursery school) is an accepted school if—

(*a*) it was such immediately before 1st May 1978, or

(*b*) save in the case of a nursery school, it is accepted hereunder by the Secretary of State on or after that date, upon the application of the governing body thereof,

so, however, that an accepted school shall, and shall only, be treated as such as from the 1st January, 1st May or 1st September—

(i) last preceding the application for acceptance, where it was made before 1st December 1978 (whether for the purposes of these regulations or of a previous provision), or

(ii) next following that application, where it was made on or after that date,

unless the governing body and the Secretary of State or, as the case may be, the Minister of Education, agreed that it should be treated as an accepted school as from some other date being the first day of a month subsequent to the application, in which case it shall be so treated:

(a) 1944 c. 31.

Provided that a school which was an accepted school immediately before 1st May 1978 by virtue of its approval by the Treasury for the purposes of section 18(vii) of the School Teachers (Superannuation) Act 1918 shall be treated as an accepted school as from the date of that approval.

(3) A school or establishment of further education which is an accepted school by virtue of paragraph (2) shall remain such unless, on or after any of the following events the Secretary of State gives the governing body thereof written notice to the contrary and, in such case, it shall cease to be an accepted school as from such date as is specified in the notice.

The events in question are—

(*a*) the receipt by the Secretary of State of an application by the governing body that the school or establishment should cease to be an accepted school;

(*b*) its ceasing to be such a school or establishment as is mentioned in paragraph (1);

(*c*) any default by the governing body in the payment of contributions;

(*d*) failure by the governing body to comply within one month with any requirement of the Secretary of State under regulation 92;

(*e*) failure by the governing body to comply with any other provision of these regulations relating to the employment of teachers in reckonable service.

(4) Full-time employment as a teacher in an accepted school shall be reckonable service:

Provided that employment shall not be such service—

(*a*) in the case of the proprietor of the accepted school, or

(*b*) in the case of a teacher employed in an accepted school—

(i) accepted within the meaning of a previous provision whereunder his employment was not reckonable service, or

(ii) accepted under these regulations, where he was employed therein immediately before the date on which it became an accepted school and, within three months of that date, he has elected that his employment should not be reckonable service,

unless and until the teacher has subsequently elected that his employment should be reckonable service and, in such case, his employment in the accepted school shall be reckonable service from the first day of the month next following that election or such later date as may be approved.

(5) In this regulation any reference to an election is a reference to an election by written notice given to the Secretary of State and the following expressions have the meanings hereby respectively assigned to them, namely—

"governing body" includes the person or body of persons by whom teachers are employed;

"independent school" has the meaning assigned thereto by section 114(1) of the Education Act 1944;

"proprietor" has the meaning so assigned.

Given under the Official Seal of the Secretary of State for Education and Science on 19th October 1978.

(L.S.)

Shirley Williams,
Secretary of State for Education and Science.

Consent of the Minister for the Civil Service given under his Official Seal on 20th October 1978.

(L.S.)

T. A. A. Hart,
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. The amendments have effect from the dates specified in Regulation 1(2), retrospection is authorised by section 12(1) of the Superannuation Act 1972.

Regulation 6 of the 1976 Regulations provided for full-time service as a teacher in a school "recognised by the Secretary of State as efficient" to be reckonable service if the school was accepted for superannuation purposes. As foreshadowed in a written answer to a question in the House of Commons on 16th June 1977 (Official Report, cols. 254-255), as from April 1978 the arrangements whereunder schools were so recognised were terminated and the criterion "recognised as efficient" ceased to be meaningful. Regulation 4 of the present Regulations, as from 1st May 1978, restates Regulation 6 of the 1976 Regulations, substituting for the criterion "recognised as efficient" criteria related to registration under section 70 of the Education Act 1944 (in view of the provisions of the Independent Schools (Exemption from Registration) Order 1978 (S.I. 1978/467), all schools within the old criterion before 1st May 1978 are now within the new criteria). Regulation 3(*a*) and (*b*) of the present Regulations contains supplemental amendments.

As from the coming into operation of the present Regulations, Regulation 5 re-defines "proprietor" in the restated Regulation 6 in terms of a person having a financial interest instead of in terms of a person having responsibility for management (teaching service by a proprietor cannot be reckonable under Regulation 6).

Regulations 3(*c*) and 6 of the present Regulations have effect as from 1st January 1977, when the 1976 Regulations came into operation. Regulation 3(*c*) relates to the meaning of the expression "previous provision" and Regulation 6 equates teaching service for purposes connected with the armed forces and teaching service with those forces.

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