STATUTORY INSTRUMENTS

1963 No. 577

EDUCATION, ENGLAND AND WALES

The Teachers Superannuation (Independent Schools) Scheme 1963

Laid before Parliament in draft
Made - - - - 21*st March* 1963
Coming into Operation 1*st April* 1963

The Minister of Education, with the consent of the Treasury, in exercise of the powers conferred on him by section 21 (1) (*a*) of the Teachers (Superannuation) Act 1925(a), as amended by section 9 (2) of the Superannuation (Miscellaneous Provisions) Act 1948(b), hereby makes the following Scheme :—

Citation and Commencement

1. This Scheme may be cited as the Teachers Superannuation (Independent Schools) Scheme 1963 and shall come into operation on 1st April 1963.

Interpretation

2.—(1) In this Scheme, unless the context otherwise requires—

"accepted school" has the meaning assigned to it by Clause 4 of this Scheme;

"the Acts" means the Teachers (Superannuation) Acts 1925 to 1956(c);

"the Act of 1925" means the Teachers (Superannuation) Act 1925 as amended by any subsequent Act;

"the Act of 1956" means the Teachers (Superannuation) Act 1956(d);

"the Minister" means the Minister of Education; and

"the Scheme of 1926" means the Scheme relating to schools which are not grant-aided schools dated October 11th 1926(e), made by the Board of Education under section 21 (1) (*a*) of the Act of 1925, as amended by the Scheme dated March 21st 1946(f) made by the Minister of Education.

(2) The Interpretation Act 1889(g) shall apply for the interpretation of this Scheme as it applies for the interpretation of an Act of Parliament.

(a) 15 & 16 Geo. 5. c. 59. (b) 11 & 12 Geo. 6. c. 33.
(c) 15 & 16 Geo. 5. c. 59; 25 & 26 Geo. 5. c. 35; 1 Edw. 8 & 1 Geo. 6. c. 47; 2 & 3 Geo. 6. c. 95; 8 & 9 Geo. 6. c. 14; 4 & 5 Eliz. 2. c. 53.
(d) 4 & 5 Eliz. 2. c. 53. (e) S.R. & O. 1926/1314 (Rev. VI, p. 449: 1926, p. 439).
(f) S.R. & O. 1946/415 (Rev. VI. p. 449: 1946 I, p. 451). (g) 52 & 53 Vict. c. 63.

Revocation of Scheme of 1926

3.—(1) The Scheme of 1926 is hereby revoked.

(2) The revocation of the Scheme of 1926 shall not affect any rights, obligations or liabilities acquired, accrued or incurred thereunder and, except as in this Scheme provided in relation to the increase of annual superannuation allowances, nothing in this Scheme shall affect any superannuation allowance or gratuity granted under Part II of the Act of 1925, as applied by the Scheme of 1926, before the coming into operation of this Scheme or any contributions in respect of the person to or in respect of whom the allowance or gratuity was granted.

Accepted Schools

4. The following schools shall be accepted schools for the purpose of this Scheme:—

(*a*) schools which were approved schools for the purposes of the Scheme of 1926 immediately before the coming into operation of this Scheme; and

(*b*) a school accepted by the Minister for the purposes of this Scheme, being a primary or secondary school, an establishment of further education or a training college for teachers not forming part of a university or a university college, which is recognised at the time of acceptance as efficient by the Minister and is not a school in which service as a teacher is contributory service for the purposes of the Acts.

Commencement and termination of acceptance

5.—(1) The date on which a school becomes an accepted school shall, unless a later date is fixed by the Minister in relation to that school, be the first day of the term in which application for acceptance is made, for which purpose the term shall be deemed to be a period of four months beginning with the 1st January, 1st May or 1st September, as the case may be.

(2) The Minister may at any time direct that a school shall cease to be an accepted school in any of the following cases:—

(*a*) on application by the governing body or proprietor;

(*b*) if the school is no longer recognised by the Minister as efficient;

(*c*) on failure to deduct from the salaries of teachers employed in the school the contributions payable by them for the purposes of this Scheme or to pay those contributions and the employers' contributions to the Minister;

(*d*) on failure to comply with the provisions of the Acts and the Rules made thereunder relating to the furnishing of particulars to the Minister.

(3) On a direction being given in pursuance of the last foregoing subclause in respect of any school, the school shall cease to be an accepted school from the date of the direction or from such later date as may be specified therein.

Application of Act of 1925

6. The provisions of Part II of the Act of 1925, modified in such manner and to such extent as is necessary to give effect to the provisions of this Scheme, shall apply to persons employed in the capacity of teachers in full-time service in accepted schools, other than:—

(*a*) a person who is for the time being the proprietor of a school conducted for private profit or who, by virtue of his position as

director of a company or otherwise, is substantially in the position of proprietor and is required by the Minister to be treated as the proprietor for the purposes of this Scheme;

(*b*) a person who, being a teacher to whom the Scheme of 1926 did not apply employed on the date of the coming into operation of this Scheme in a school which becomes an accepted school by virtue of clause 4 (*a*) of this Scheme, notifies the Minister in writing within six months of that date that he does not wish Part II of the Act of 1925 as modified by this Scheme to apply to him; and

(*c*) a person who, being a teacher employed in a school at the date on which it becomes an accepted school by virtue of clause 4 (*b*) of this Scheme, notifies the Minister in writing within six months of that date that he does not wish Part II of the Act of 1925 as modified by this Scheme to apply to him:

Provided that, if a person who has notified the Minister in accordance with either paragraph (*b*) or paragraph (*c*) of this clause subsequently notifies him in writing that he wishes Part II of the Act of 1925 as modified by this Scheme to apply to him, it shall apply accordingly as from such date as the Minister shall fix.

Employment to be Contributory Service

7. The employment of persons to whom the provisions of Part II of the Act of 1925 apply by virtue of this Scheme shall, except as in this Scheme provided, be treated as contributory service for the purposes of the Acts and the provisions of the Acts shall apply thereto accordingly.

Relationship of Scheme Service and other Contributory Service

8.—(1) Employment which is treated as contributory service by virtue of the Scheme of 1926 or this Scheme shall not, except so far as may be otherwise prescribed under the Acts, be so treated for the purpose of:—

(*a*) determining for the purposes of section 2 (1) (*a*) (iv) of the Act of 1925 whether a teacher has been in some other form of contributory service; or

(*b*) calculating the amount of any superannuation allowance or gratuity in respect of recognised or contributory service under the Acts; or

(*c*) determining whether a teacher died in contributory service under the Acts.

(2) Any period of employment which is treated as contributory service by virtue of section 18 or section 19 of the Act of 1956 (which relate to employment in schools abroad and to employment providing experience of value to teachers) shall not be so treated for the purpose of the Scheme of 1926 or of this Scheme.

(3) Contributory service under the Acts shall not be reckoned for the purpose of determining whether a teacher died in contributory service under this Scheme.

Contributions

9.—(1) Section 9 (1) of the Act of 1925 (which, for the purpose of defraying the cost of benefits, requires both a teacher and his employer to pay contributions) shall apply for the purposes of this Scheme as originally enacted and the provisions of sections 2 and 4 of the Act of 1956 (which relate to the increase of contributions and the payment of supplementary contributions by employers) shall not apply.

(2) The amount payable by a teacher by way of contributions under section 2 (1) of the Teachers (Superannuation) Act 1937(a) (which enables teachers to pay contributions during intervals of service) shall continue to be an amount equal to 10 per cent. of the salary in respect of the period of absence and the provisions of section 2 (3) of the Act of 1956 shall not apply thereto.

Average Salary

10. Section 10 (2) of the Act of 1925 shall apply for the purpose of calculating the average salary of persons to whom the provisions of Part II of the Act of 1925 apply by virtue of the Scheme of 1926 or of this Scheme with the modification that average salary shall be taken to be the average amount of full salary, as calculated under the said section 10, throughout his employment in contributory service under the Scheme of 1926 and this Scheme.

Calculation of Additional Allowances

11. For the purpose of calculating the amount of any additional allowance payable to a person to whom this Scheme applies paragraphs (*a*) and (*b*) of section 5 (2) of the Act of 1956 shall be modified by the substitution for the references therein to the commencement of that Act of references to the coming into operation of this Scheme.

Increase of Annual Superannuation Allowance

12. Any annual superannuation allowance granted under Part II of the Act of 1925, as applied by the Scheme of 1926 or this Scheme, shall, as from the date of the coming into operation of this Scheme or the date on which the allowance becomes payable, whichever is the later, be increased by an amount equal to one-fifth of so much thereof as is payable in respect of service before 1st April 1962.

Accounts and Actuarial Inquiries

13.—(1) In respect of service to which this Scheme applies the following provisions shall have effect in substitution for those of section 15 of, and the Second Schedule to, the Act of 1925:—

(*a*) There shall be kept in accordance with the directions contained in this clause an account in the form and prepared in the manner provided for by the Teachers Superannuation (Accounts) (Non-grant-aided Schools) Regulations 1958(b) in respect of the account required to be kept under Clause 9 of the Scheme of 1926, or in such other form and prepared in such other manner as may be provided for by Regulations made by the Treasury, of all revenue and expenditure (including any sums which are under this clause to be deemed to be revenue and expenditure) under this Scheme, and on 31st March 1966 and at the expiration of every subsequent period of five years the Treasury shall cause an actuarial inquiry to be made for the purpose of determing whether on the basis of the said account the contributions payable under this Scheme are sufficient or more than sufficient or less than sufficient to support the benefits payable thereunder in respect of those contributions.

(*b*) The Treasury shall cause a report of every inquiry made under these provisions to be laid before both Houses of Parliament.

(*c*) The accounting periods for which the account shall be made up shall be from 1st April in each year to 31st March in the next year.

(a) 1 Edw. 8 & 1 Geo. 6. c. 47. (b) S.I. 1958/1479 (1958 I, p. 1018).

(*d*) There shall be treated as having been paid into the revenue for each accounting period:—

(i) the amount of contributions attributable to the period;

(ii) a sum representing interest at the rate of 3½ per cent. per annum on the mean balance, if any, of revenue over expenditure during the period, such mean balance being calculated by adding together one-half of the balance (exclusive of any interest under this paragraph) remaining at the end of the period and one-half of the balance, if any, carried forward from the last preceding accounting period;

(iii) the amount of any balance of revenue over expenditure remaining at the end of the last preceding accounting period;

(iv) any other revenue attributable to the period.

(2) The account kept under clause 9 of the Scheme of 1926 shall be continued and from the date of the coming into operation of this Scheme shall be deemed to be the account required to be kept under this clause.

National Insurance

14. The modifications of the Acts for which the National Insurance (Modification of Teachers Pensions) Regulations 1948(a), as amended by the National Insurance (Modification of Teachers Pensions) Amending Regulations 1956(b), and the National Insurance (Modification of Teachers Superannuation Acts) Regulations 1961(c) provide shall apply to persons whose employment is treated as contributory service by virtue of the Scheme of 1926 or this Scheme in like manner as they apply to other teachers in contributory service.

Extension of Time

15. The Minister may extend the time within which anything is required to be done under the provisions of this Scheme if he considers that there are reasonable grounds for so doing.

Given under the Official Seal of the Minister of Education on 19th March 1963.

(L.S.)

Edward C. G. Boyle,
Minister of Education.

Concur.

M. A. Hamilton,
G. T. C. Campbell,
Two of the Lords Commissioners of Her Majesty's Treasury.

21st March 1963.

(a) S.I. 1948/889 (Rev. XVI, p. 298: 1948 I, p. 2851).
(b) S.I. 1956/1482 (1956 I, p. 1643). (c) S.I. 1961/513 (1961 I, p. 1158).

EXPLANATORY NOTE

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

This Scheme revokes the Scheme made in 1926 for the superannuation of teachers employed in some non-grant-aided (now called independent) schools and replaces it with a new Scheme giving effect to the recommendations contained in the recent report of the Government Actuary (H.C.311). The main changes are the introduction of certain improvements enjoyed by other teachers under the Teachers (Superannuation) Act 1956, and an increase of one-fifth in annual allowances granted in respect of service before 1st April 1962. Some simplification has also been made in the arrangements for accepting schools and individual teachers.

Like the Scheme of 1926, this Scheme provides for the application to teachers employed in independent schools recognised by the Minister of Education as efficient of most of the provisions of the Teachers (Superannuation) Acts, except that both teacher's and employer's contributions remain at the rate of 5 per cent. instead of 6 per cent. and the benefits are based on the average salary throughout the Scheme service, instead of for the last three years.

On coming into operation the Scheme will apply to approximately 1,000 teachers employed in 160 accepted schools.