STATUTORY INSTRUMENTS

1976 No. 910 (S. 77)

EDUCATION, SCOTLAND

The Teachers Superannuation (Miscellaneous Provisions) (Scotland) Regulations 1976

Made - - - -	*9th June* 1976
Laid before Parliament	*11th June* 1976
Coming into Operation	*1st July* 1976

In exercise of the powers conferred on me by sections 9 and 12 of the Superannuation Act 1972(**a**) and of all other powers enabling me in that behalf, with the consent of the Minister for the Civil Service and after consultation with representatives of education authorities and of teachers and with such representatives of other persons likely to be affected as appear to me to be appropriate, I hereby make the following regulations:—

PART I

GENERAL

Citation, commencement, construction and interpretation

1.—(1) These regulations may be cited as the Teachers Superannuation (Miscellaneous Provisions) (Scotland) Regulations 1976.

(2) These regulations shall come into operation on 1st July 1976 and shall have effect from that date except as otherwise expressly provided.

(3) These regulations—

(*a*) in so far as they amend the Teachers Superannuation (Scotland) Regulations 1969(**b**), the Teachers Superannuation (Financial Provisions) (Scotland) Regulations 1972(**c**), the Superannuation (Teachers and Teachers' Families) (Scotland) Regulations 1973(**d**) and the Teachers Superannuation (Added Years and Interchange) (Scotland) Regulations 1974(**e**) shall be construed as one with the Teachers Superannuation (Scotland) Regulations 1969 to 1975(**f**) and may be cited together as the Teachers Superannuation (Scotland) Regulations 1969 to 1976;

(*b*) in so far as they amend the Teachers Superannuation (Family Benefits) (Scotland) Regulations 1971(**g**) and the Teachers Superannuation (Family Benefits) (Scotland) Amendment Regulations 1973(**h**) shall be construed as one with the Teachers Superannuation (Family Benefits) (Scotland) Regulations 1971 to 1975(**i**) and may be cited together as the Teachers Superannuation (Family Benefits) (Scotland) Regulations 1971 to 1976;

(**a**) 1972 c. 11.
(**b**) S.I. 1969/77 (1969 I, p. 133).
(**c**) S.I. 1972/551 (1972 I, p. 1855).
(**d**) S.I. 1973/547 (1973 I, p. 1738).
(**e**) S.I. 1974/1135 (1974 II, p. 4315).
(**f**) S.I. 1975/1352 (1975 II, p. 4603).
(**g**) S.I. 1971/1775 (1971 III, p. 4813).
(**h**) S.I. 1973/2078 (1973 III, p. 7164).
(**i**) S.I. 1975/931 (1975 II, p. 3249).

(*c*) in so far as they amend the Teachers Superannuation (War Service) (Scotland) Regulations 1975(**a**) shall be construed as one with those regulations and may be cited together as the Teachers Superannuation (War Service) (Scotland) Regulations 1975 to 1976.

(4) In these regulations—

"allowances" means an annual allowance and an additional allowance;

"increment" means an increase in pay for which provision is made in a pay scale;

"regular employment" means employment under a contract which specifies a non-varying pattern of employment;

"the family benefits regulations 1973" means the Teachers Superannuation (Family Benefits) (Scotland) Amendment Regulations 1973;

"the principal family benefits regulations" means the Teachers Superannuation (Family Benefits) (Scotland) Regulations 1971;

"the principal regulations" means the Teachers Superannuation (Scotland) Regulations 1969;

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

and other expressions used in these regulations which are used in the regulations referred to in paragraph (3) shall, as the context may require, have the meanings respectively assigned to them by those regulations.

(5) Any reference to a regulation not otherwise identified is a reference to a regulation of these regulations; and any reference to a paragraph or a sub-paragraph is a reference to a paragraph of the regulation, or as the case may be to a sub-paragraph of the paragraph, in which the reference occurs.

(6) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(7) The Interpretation Act 1889(**c**) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

PART II

TEACHERS SUPERANNUATION

Death gratuities

2. In the principal regulations—

(*a*) in regulation 35 (Repayment on death) the words "may be paid" shall be substituted for the words "shall be entitled to be paid";

(*b*) in (1) and (2A) of regulation 46 (Death gratuities) the words "may be paid" shall be substituted for the words "shall be paid";

(*c*) in regulation 47 (Death during service after age of seventy) the words "may pay" shall be substituted for the words "shall pay";

(*d*) in regulation 48(1) (Supplementary death gratuities) the words "may, subject to paragraph (3) of this regulation, pay" shall be substituted for the words "shall, subject to paragraph (3) of this regulation, pay".

(**a**) S.I. 1975/872 (1975 II, p. 3085).
(**b**) S.I. 1957/356 (1957 I, p. 733).
(**c**) 1889 c. 63.

Re-employment of teachers

3.—(1) This regulation shall apply to any teacher who, after allowances have become payable to him, is employed as a teacher or an organiser in—

(*a*) reckonable or external service; or

(*b*) subject to paragraph (2), service which would be reckonable if he had not before 1st July 1976 elected that his annual allowance should be dealt with under Method B as set out in regulation 54 of the regulations of 1957 or in regulation 50 of the principal regulations; or

(*c*) employment of which the remuneration is paid out of the Consolidated Fund or out of moneys provided by Parliament; or

(*d*) employment by a body, including a local authority, in respect of whose expenditure for the purpose for which he is employed grants are made out of moneys provided by Parliament; or

(*e*) service which would be reckonable or external service if he had not attained the age of seventy years; or

(*f*) reckonable or external service not having attained the age of sixty years and who is continuing to receive an allowance by virtue of regulation 40(1)(*c*) of the principal regulations which is not suspended under regulation 52 of those regulations.

(2) A teacher who before 1st July 1976 elected that his annual allowance should be dealt with under Method B as set out in regulation 54 of the regulations of 1957 or in regulation 50 of the principal regulations, may elect to be in reckonable service by giving notice in writing to the Secretary of State and such election shall have effect from the first day of his re-employment after these regulations come into operation or from the date of the election, whichever shall be the later.

(3) In the case of a teacher to whom this regulation applies, the annual allowance payable to him shall—

(*a*) whilst he holds any employment to which paragraph (1) applies being employment which is not expressed to be regular employment, be so reduced or suspended (if necessary) for any quarter as to ensure that his earnings during that quarter together with his annual allowance (including any increase under the Pensions (Increase) Act 1971(**a**)) shall not exceed one-quarter of his salary of reference; or

(*b*) whilst he holds any employment to which paragraph (1) applies other than employment to which sub-paragraph (*a*) applies, be so reduced or suspended (if necessary) as to ensure that his earnings together with his annual allowance (including any increase under the Pensions (Increase) Act 1971) shall not exceed his salary of reference; or

(*c*) for the purposes of sub-paragraphs (*a*) and (*b*) where, under regulation 45 of the regulations of 1957, or under any corresponding provisions for the time being in force in any statutory superannuation scheme applicable to teachers in external service, a teacher has surrendered the whole or part of his additional allowance in return for an additional annual allowance, no account shall be taken of the said additional annual allowance.

(4) For the purposes of paragraph (3) the rate of earnings at the commencement of the period of employment shall be deemed to remain constant throughout the period of employment, provided that where there is a change of grade

(**a**) 1971 c. 56.

or any other change in the conditions or terms of the employment which in the opinion of the Secretary of State constitutes a variation in the employment, the rate of earnings shall be taken to be that payable on the commencement of such change.

(5) For the purposes of this regulation the salary of reference of a re-employed teacher shall be the highest salary rate received during the last 1,095 days of reckonable or external service, whether continuous or not, before allowances last became payable to him.

Provided that—

(i) if during that period a salary on which the teacher pays, or has paid, contributions under regulation 28 of the principal regulations is more favourable, that salary shall be the salary of reference;

(ii) the salary of reference shall be reduced by the amount of any part of the annual allowance which the teacher has allocated under regulation 44 of the regulations of 1957, or Part VI of the principal regulations or under any corresponding provisions for the time being in force in any statutory superannuation scheme applicable to teachers in external service;

(iii) the salary of reference so reduced by the amount (if any) specified in sub-paragraph (ii) shall be increased by the amount (if any) which would have been due to the teacher under the Pensions (Increase) Act 1971 if the salary of reference before being so reduced had been a pension coming into payment on the day following his last day of reckonable or external service; and

(iv) for the purposes of sub-paragraph (iii) the salary of reference of any teacher to whom paragraphs (1)(*b*), (*c*), (*d*), (*e*) and (*f*) apply on 1st July 1976 shall be determined as if on that date he became re-employed for the first time after allowances became payable to him.

(6) Where a teacher for reasons other than death ceases to be re-employed in reckonable service, or external service, after having been so re-employed for a period of less than 365 days or for periods amounting in the aggregate to less than 365 days, his annual allowance shall be restored.

(7) A teacher to whom annual and additional allowances have become payable under the regulations of 1957 or the principal regulations shall not be entitled to any further such allowances by reason of any subsequent period or periods of employment in reckonable service or external service, unless such period is of, or such periods amount in the aggregate to, at least 365 days since allowances last became payable to him, and the provisions of regulations 41 and 43 of the principal regulations or, as the case may be, regulation 45 of the principal regulations shall apply, subject to the following modifications:—

(*a*) an annual allowance which becomes payable under the principal regulations after such an allowance has previously been payable under the regulations of 1957 or the principal regulations shall be in substitution for the previous annual allowance and shall not be less in amount;

(*b*) an additional allowance which becomes payable under the principal regulations after such an allowance has previously been payable shall be reduced by an amount equal to the aggregate of any previous such allowances paid to the teacher under the regulations of 1957 or the principal regulations;

(*c*) the amount of any annual allowance shall be taken to be the amount thereof apart from any allocation made under the regulations of 1957 or the principal regulations, and the amount of any additional allowance shall be taken to be the amount thereof apart from any surrender made under regulation 45 of the regulations of 1957 or any deduction made under the Teachers Superannuation (Family Benefits) (Scotland) Regulations 1971 to 1975 or under regulation 5 of the Teachers Superannuation (War Service) (Scotland) Regulations 1975(**a**).

(8) Where a re-employed teacher dies in circumstances in which, if he had ceased to be employed for reasons other than death, he might have been entitled under paragraph (7) to an annual allowance and an additional allowance, a death gratuity not exceeding the amount whereby the additional allowance which might have been so payable to the teacher exceeds the additional allowance last granted to him may be paid to the personal representatives of the teacher.

Determination of salary of re-employed teachers

4. In determining the salary or remuneration to which a re-employed teacher is entitled for the purposes of regulation 3, the following payments to him shall be disregarded:—

(*a*) any payments in respect of employment in connection with education which, while employed in reckonable service or external service, the teacher undertook in addition to such service and which he continues after ceasing such service, not exceeding, when expressed as an annual rate, the average annual rate of such payments for the last three years of his employment in reckonable service or external service;

(*b*) any payments in respect of employment in connection with education outside the British Isles, being employment in which, in the opinion of the Secretary of State, it is expedient to facilitate the employment of teachers from Scotland;

(*c*) any fees in respect of employment for the purposes of the Scottish Certificate of Education or the General Certificate of Education.

Forfeiture of benefit

5. The Secretary of State may withhold, or pay at such reduced rate as he may determine, the payment of any allowance or gratuity payable apart from this regulation to or in respect of a teacher who is convicted of any offence committed before or after the benefit becomes payable which is—

(*a*) an offence of treason; or

(*b*) one or more offences under the Official Secrets Acts 1911 to 1939(**b**) for which he has been sentenced on the same occasion to a term of imprisonment of, or for two or more consecutive terms amounting in the aggregate to, at least 10 years; or

(*c*) any other offence in connection with his employment as a teacher which is certified by the Secretary of State either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service.

Payments in respect of deceased persons

6. Regulation 74 of the principal regulations shall have effect with the substitution of the sum of "£1,500" for the sum of "£500".

(**a**) S.I. 1975/872 (1975 II, p. 3085).

(**b**) 1911 c. 28; 1920 c. 75; 1939 c. 121.

Reckonable service

7. In Part I of Schedule 1 to the principal regulations (which specifies the types of teaching service which shall be recorded as reckonable service), paragraph 5 shall be deleted and the following paragraph substituted:—

"5. Teacher in a central institution, except a teacher in employment on or after 1st April 1975 with the East of Scotland College of Agriculture, the North of Scotland College of Agriculture or the West of Scotland Agricultural College who is subject to the Department of Agriculture and Fisheries for Scotland Superannuation Scheme 1975 as a consequence of that employment or as a consequence of his having so elected in writing under transitional arrangements relating to the introduction of the Department of Agriculture and Fisheries for Scotland Superannuation Scheme 1975.".

Non-reckonable service counting towards entitlement to allowances

8. Schedule 1 to the Superannuation (Teachers and Teachers' Families) (Scotland) Regulations 1973(**a**) shall have effect from 1st April 1975 with the addition of the following paragraph:—

"21. After reckonable service, employment on or after 1st April 1975 which is pensionable employment under the Department of Agriculture and Fisheries for Scotland Superannuation Scheme 1975.".

Pay restraint

9. In regulation 4(2A)(*b*) (Calculation of Average Salary) of the Teachers Superannuation (Financial Provisions) (Scotland) Regulations 1972(**b**) as amended(**c**) there shall be added at the end:—

"provided that in any case under paragraph (1) or (2) any increment which would have been payable after 1st August 1975 and which has been withheld or deferred in the national interest shall be taken into account as if the withholding or deferment had not taken place.".

Receipt of transfer values

10. Regulation 25(1) of the Teachers Superannuation (Added Years and Interchange) (Scotland) Regulations 1974 shall have effect from 31st July 1974 with the substitution of the word "a" for the words "an approved".

PART III

FAMILY BENEFITS

Repayment of contributions on death

11. In regulation 38(1)(*d*) (When contributions repayable) of the principal family benefits regulations the words "at the discretion of the Secretary of State" shall be inserted before the words "on his death".

Payments in respect of deceased persons

12. Regulation 76(2) of the principal family benefits regulations shall have effect with the substitution of the sum of "£1,500" for the sum of "£500".

(**a**) S.I. 1973/547 (1973 I, p. 1738).
(**b**) S.I. 1972/551 (1972 I, p. 1855).
(**c**) S.I. 1972/1239 (1972 II, p. 3738).

Children's short term pension

13. For regulation 21 of the Superannuation (Teachers and Teachers' Families) (Scotland) Regulations 1973 there shall be substituted the following regulation which shall have effect from 1st April 1972:—

"21. There shall be paid in respect of every teacher who dies after 31st March 1972 while employed in reckonable service and leaving a child but no widow a pension at an annual rate equal to the annual rate of his salary immediately before his death—

(*a*) without having completed five years of such service—

(i) if he leaves one child, for two months to or for the benefit of that child; and

(ii) if he leaves more than one child, for four months to or for the joint benefit of those children; or

(*b*) having completed five years or more of such service if he leaves one child or more than one child, for three months to or for the benefit of that child or those children.".

Incapacitated children

14. For the purposes of regulations 17 and 21 of the family benefits regulations 1973 a person who is incapacitated on the date when, apart from this regulation, he would be treated as ceasing to be a child shall continue to be treated as a child for so long as that incapacity persists.

Dates for making elections

15. Regulation 5(1) of, and paragraph 2 of Schedule 4 to, the family benefits regulations 1973 shall have effect from 1st April 1975 with the substitution of "1st January 1976" for "1st April 1975".

PART IV

WAR SERVICE

Application of War Service Regulations

16.—(1) In paragraph (1) of regulation 4 (Application of regulation 3) of the Teachers Superannuation (War Service) (Scotland) Regulations 1975—

(*a*) after sub-paragraph (*a*) there shall be inserted the following sub-paragraph:—

"(*b*) after 30th June 1950 on the satisfactory completion of a period of probationary teaching service which the Secretary of State required the teacher to undertake as a condition for admission to a scheme for the superannuation of teachers; or";

(*b*) sub-paragraph (*b*) shall be renumbered (*c*).

(2) For paragraph (3) of the same regulation there shall be substituted the following paragraph:—

"(3) Any question arising under this regulation as to whether a teacher satisfactorily completed a period of probationary teaching service which the Secretary of State required him to undertake as a condition for admission to a scheme for the superannuation of teachers, or became employed in reckonable service on completion of a period of probationary teaching service or a course to which paragraph (1) applies, shall be decided by the Secretary of State and his decision shall be final.".

PART V

CONSEQUENTIAL AMENDMENTS AND REVOCATIONS

Consequential amendments

17.—(1) In the principal regulations—

(*a*) in regulation 7(2) the words from "under Method A" to the end of the paragraph shall be deleted and the words "as reckonable service under regulation 3 of the Teachers Superannuation (Miscellaneous Provisions) (Scotland) Regulations 1976" shall be substituted;

(*b*) in regulation 16(1)(*d*) the words "of Method B set out in regulation 50(8) or under the corresponding provisions of the regulations of 1957" shall be deleted and the words "set out in regulation 3(1)(*b*), (*c*), (*d*), (*e*) and (*f*), (3), (4) and (5) of the Teachers Superannuation (Miscellaneous Provisions) (Scotland) Regulations 1976" shall be substituted;

(*c*) in regulation 42(3) the words "of regulations 49 and 52" shall be deleted and the words "of regulation 3 of the Teachers Superannuation (Miscellaneous Provisions) (Scotland) Regulations 1976 and of regulation 52" shall be substituted;

(*d*) in regulation 52(5) the words "regulation 50(6)" shall be deleted and the words "regulation 3(7) of the Teachers Superannuation (Miscellaneous Provisions) (Scotland) Regulations 1976" shall be substituted.

(2) In the Teachers Superannuation (Added Years and Interchange) (Scotland) Regulations 1974 in regulation 12(3) the words "regulation 50(6)" shall be deleted and the words "regulation 3(7) of the Teachers Superannuation (Miscellaneous Provisions) (Scotland) Regulations 1976" shall be substituted.

Revocations

18. The following regulations are hereby revoked:—

(*a*) Regulations 49, 50 and 53 of the principal regulations; and

(*b*) the Education (Scotland) Teachers' Superannuation Grant Regulations 1928(**a**).

Bruce Millan,
One of Her Majesty's Principal Secretaries of State.

New St. Andrew's House,
Edinburgh.

9th June 1976.

(**a**) S.R. & O. 1928/951 (Rev. VI, p. 726: 1928, p. 491).

Consent of the Minister for the Civil Service given under his Official Seal on 9th June 1976.

K. H. McNeill,
Authorised by the Minister for the Civil Service.

(L.S.)

EXPLANATORY NOTE

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

These Regulations amend various provisions relating to the superannuation of teachers and the provision of benefits in respect of their dependants contained in the Teachers Superannuation (Scotland) Regulations 1969–1975, the Teachers Superannuation (Family Benefits) (Scotland) Regulations 1971–1975, and the Teachers Superannuation (War Service) (Scotland) Regulations 1975.

Regulations 2 and 11 make the payment of certain benefits discretionary instead of mandatory for the purpose of exempting such benefits from capital transfer tax.

Regulation 3 introduces improved terms for the abatement of the pensions of retired teachers who resume employment in reckonable service counting for revision of their superannuation allowances on subsequent retirement. The Regulations apply the same abatement provisions to teachers re-employed in non-reckonable service on or after the operative date of these Regulations as to those re-employed in reckonable service.

Regulation 5 introduces provisions for forfeiture of benefit in place of those relating to withholding or reduction of benefit which are now revoked.

Regulations 6 and 12 raise the maximum sum which may be paid without confirmation or other proof of title to the estate of a deceased person.

Regulation 7 makes provision for teachers employed in the three agricultural colleges in Scotland who wish to be subject to the Department of Agriculture and Fisheries for Scotland Superannuation Scheme 1975 instead of the teachers' scheme.

Regulation 9 provides that the average salary for purposes of calculating superannuation benefits may be computed as if any deferment or withholding, in the national interest, of the payment of any sums by way of increment to which a teacher would otherwise have been entitled had not been deferred or withheld.

Regulation 13 replaces and extends the existing provisions for short-term pensions to include the payment of such a pension to the child or children of a teacher with more than 5 years' reckonable service who dies in reckonable service after 31st March 1972 and leaves no widow.

Regulation 14 continues the payment of a pension to the incapacitated child of a deceased teacher beyond the date when the child would otherwise cease to be treated as a child.

Regulation 15 amends the date by which certain elections were required to be made under the Teachers Superannuation (Family Benefits) (Scotland) Regulations 1971 to 1975.

Regulation 16 provides for the year of probationary teaching service which certain teachers were required to undertake as a condition for admission to the superannuation scheme to be treated for the purposes of the Teachers Superannuation (War Service) (Scotland) Regulations 1975 in the same way as a course leading to certification as a teacher.

The Regulations also make minor consequential and drafting amendments and revocations.

Regulations 7 to 10 inclusive, 13 and 15 have retrospective effect as authorised by Section 12(1) of the Superannuation Act 1972.

SI 1976/910
ISBN 0-11-060910-7

