1965 No. 1167 (S. 44)

EDUCATION, SCOTLAND

The Teachers (Superannuation) (Scotland) Rules 1965

Made - - - - 24*th May* 1965
Coming into Operation 29*th May* 1965

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RULES

In the exercise of the powers conferred upon me by Regulation 57(1) of the Teachers (Superannuation) (Scotland) Regulations 1957(a) and of all other powers enabling me in that behalf, I hereby make the following Rules:—

INTRODUCTION

Interpretation

1.—(1) The Interpretation Act 1889(b) applies for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

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

(3) References in these Rules to a Regulation shall, unless the context otherwise requires, be construed as references to a Regulation of the Teachers (Superannuation) (Scotland) Regulations 1957 as amended(c).

Definitions

2. In these Rules, unless the context otherwise requires:—

(1) " Act of 1959 " means the Mental Health Act 1959(d);

(2) " Act of 1962 " means the Education (Scotland) Act 1962(e);

(3) " allocate " means to surrender part of a pension in accordance with the provisions of Regulation 44, and " allocation " and " make an allocation " shall be construed accordingly;

(4) " beneficiary ", in relation to an allocation, means the spouse or dependant of a teacher to whom a pension is or may become payable under Regulation 44(3) and, in relation to the Family Benefits Regulations, means the person to whom or for whose benefit a pension is or may become payable under those Regulations;

(5) " closing date ", in relation to an allocation—

(*a*) by a retiring teacher, means the day immediately preceding the day upon which the teacher's pension begins to accrue, or the last day of the period of three calendar months from the date on which the teacher was supplied with a form of application for allocation under these Rules, whichever is the later date; or,

(*b*) by a continuing teacher, means the last day of the period of three calendar months from the date on which the teacher was supplied with a form of application for allocation under these Rules; or,

(*c*) by a teacher resident outside the United Kingdom, means such day as the Secretary of State may appoint, being a day which will, in the opinion of the Secretary of State, give the teacher a reasonable opportunity of conforming to the procedure prescribed in these Rules for making an allocation;

(a) S.I. 1957/356 (1957 I, p. 733).
(b) 52 & 53 Vict. c. 63.
(c) S.I. 1958/1595, 1963/2111, 1965/1166 (1958 I, p. 1077; 1963 III, p. 4685; 1965 II, p. 3284).
(d) 7 & 8 Eliz. 2. c. 72.
(e) 10 & 11 Eliz. 2. c. 47.

(6) " continuing teacher ", in relation to an allocation, means a teacher who, if he ceased to be employed in first class service or second class service, would be entitled to a retiring allowance under Regulation 39 ;

(7) " contributions " means the contributions payable by a teacher under section 105(1) of the Education (Scotland) Act 1962 ;

(8) " Family Benefits Regulations " means the Teachers (Superannuation) (Family Benefits) (Scotland) Regulations 1965(a) ;

(9) " financial year " means the period beginning on 1st April in one year and ending on 31st March in the next following year ;

(10) " midnight ", in relation to a particular day, means the midnight between that day and the next following day ;

(11) " option tables " means the tables prepared by the Government Actuary under proviso (ii) to paragraph 10 of Part I of Schedule 3 to the Act of 1962 and for the time being in force ;

(12) " periodical contributions " has the meaning assigned to it in Regulation 3(1)(*n*) of the Family Benefits Regulations ;

(13) " prescribed " means prescribed by the Secretary of State ;

(14) " quarter day " means 30th June, 30th September, 31st December or 31st March, as the case may be, and " quarter ", in relation to any quarter day, means the period of three months ending on the said day ;

(15) " Regulations " means the Teachers (Superannuation) (Scotland) Regulations 1957 as amended ;

(16) " retiring teacher ", in relation to an allocation, means a teacher to whom a retiring allowance is, or is about to be, granted under Regulation 39.

General Rules

Evidence of age or status

3. Where the age or status of any person is required to be ascertained or proved for the purposes of the Regulations or of the Family Benefits Regulations there shall be produced by or on behalf of the said person to the Secretary of State a certified copy of the relative birth certificate and, if necessary, marriage certificate, or, if the Secretary of State is satisfied that there is sufficient reason why such copies can not be produced, such other evidence of his age or status as can be produced.

Evidence of physical capacity

4.—(1) Where the physical capacity or state of health of any person is required to be ascertained or proved for the purposes of the Regulations or of the Family Benefits Regulations, that person shall submit himself for examination by a duly qualified medical practitioner nominated by the Secretary of State within such period after the date of nomination as the Secretary of State may determine :

Provided that—

(i) where the said person is a patient in a mental hospital, the Secretary of State may dispense with a medical examination by a duly qualified

(a) S.I. 1965/680 (1965 I, p. 2104).

medical practitioner nominated by him, and may accept a report by the medical officer in charge of the said hospital;

(ii) where the Secretary of State is satisfied that owing to exceptional circumstances it is inexpedient or impracticable to require the said person to submit himself for such examination, he may accept a report by any duly qualified medical practitioner.

(2) The medical practitioner shall transmit his report of the result of the examination to the Secretary of State. If after consideration of the report the Secretary of State thinks it desirable that a second medical opinion should be obtained, the person concerned shall submit himself for further medical examination, and the provisions of the last foregoing paragraph shall apply to the second examination as they applied to the first.

(3) The fee incurred by a person submitting himself for medical examination under these Rules shall be paid by the Secretary of State except where the said fee is incurred for the purpose of Rule 12 of these Rules or for the purpose of Part IV of the Family Benefits Regulations when it shall be paid by the person examined or on his behalf.

Extension of time limits

5. The Secretary of State may extend any time within which anything is required to be done under these Rules if he considers that there are reasonable grounds for so doing.

Use of forms

6. The Secretary of State or the Paymaster General may supply forms to be used for any of the purposes of the Regulations or of the Family Benefits Regulations and, where a form has been supplied for any purpose, the persons concerned shall use that form for that purpose.

Transmission of documents

7. Any application, notice, document or other communication to be sent to the Secretary of State or to the Paymaster General under the Regulations, the Family Benefits Regulations or these Rules shall, unless the Secretary of State or the Paymaster General otherwise agrees, be sent by post to the office of the Secretary of State or of the Paymaster General, as the case may be, and shall be deemed to have been sent in sufficient time to reach the Secretary of State or the Paymaster General not later than a time specified in these Rules and to have reached the Secretary of State or the Paymaster General by that time if it is posted at a time which will normally ensure its delivery not later than the specified time.

Claims for benefits

8. An application for the grant of a benefit under the Regulations or under the Family Benefits Regulations shall be made in writing by the teacher or by the personal representative of the deceased teacher or by or on behalf of a beneficiary, as the case may be, to the Secretary of State:

Provided that if, in the opinion of the Secretary of State, the teacher or the said personal representative or the said beneficiary is of unsound mind or is for any other reason unable to apply in writing for the said benefit, the Secretary of State may accept an application made on behalf of the

teacher or of the said personal representative or of the said beneficiary by any person whom he considers appropriate.

Payment of benefits

9.—(1) As soon as the Secretary of State is satisfied that the teacher or the personal representative of the deceased teacher or the beneficiary, as the case may be, is entitled to receive payment of a benefit under the Regulations or under the Family Benefits Regulations he shall authorise payment of the said benefit and shall send notice to the teacher or to the said personal representative or to the person applying on behalf of the teacher or of the said personal representative, as the case may be, that the said authority has been given and where an allowance or gratuity is granted on retirement through infirmity, the Secretary of State shall so inform the employer by whom the teacher was last employed in first class service.

(2) Any pension or balance of pension shall accrue from day to day.

(3) Any person entitled to receive payment of any sum under the Regulations or the Family Benefits Regulations on account of himself or of any other person shall produce to the Secretary of State or the Paymaster General, as the case may be, such evidence of the continued life and the identity of himself or the said other person as the Secretary of State or the Paymaster General, as the case may be, may require.

(4) Where any person, other than a person to whom section 138 of the Act of 1959 applies, to whom any sum in respect of any benefit under the Regulations or the Family Benefits Regulations is payable is certified by a duly qualified medical practitioner to be unable by reason of physical disability to give a receipt, the Secretary of State may authorise the payment of the said sum to such other person as he may nominate.

(5) Subject to the provisions of this Rule, the Secretary of State or, as the case may be, the Paymaster General may adopt such method of payment as he may think fit.

Calculation of interest

10.—(1) Interest on contributions or on periodical contributions collected by the Secretary of State within any financial year shall begin to accrue from the first day of October in that financial year. Contributions or periodical contributions shown in the relevant annual return to the Secretary of State for any financial year to have been deducted from a teacher's salary shall be deemed, for the purpose of this Rule, to have been collected by the Secretary of State within that year.

(2) Subject to the provisions of Rule 16(2) of these Rules, where the Secretary of State requires a contribution to be paid to him at a time more than six months after the end of the financial year to which the payment relates, there shall be added to the sum to be so paid compound interest thereon from 1st October next following the end of the said financial year to the date upon which payment is made calculated at the rate of four per cent. per annum with yearly rests.

Evidence of dependancy

11. For the purpose of the award of pensions to beneficiaries under Part III or Part IV of the Family Benefits Regulations, the Secretary of State may require such independent verification as he thinks fit of the particulars given by the teacher with regard to the beneficiary, and for this purpose he may require the teacher or the beneficiary to make a declaration in the presence of and to be attested by a Magistrate, Justice of the Peace, or Notary Public stating whether the beneficiary is wholly or partially dependent on the teacher.

ALLOCATION OF PENSIONS

Procedure for making an allocation

12.—(1) Any retiring teacher and any continuing teacher may notify the Secretary of State of his desire to consider the question of making an allocation. In the case of a retiring teacher the said notification shall be made in writing at the time when he applies for a retiring allowance, and in the case of a continuing teacher, not earlier than four months before he attains the age of sixty years. As soon as practicable after the receipt of such a notification the Secretary of State shall furnish him with—

(*a*) a copy of a form of application for allocation;

(*b*) a copy of the relevant provisions of the Regulations and these Rules and of the option tables for the time being in force;

(*c*) where the teacher is a retiring teacher, provisional notification of the amounts of the pension and lump sum expected to be payable to him if no allocation is made and of the date when the pension will begin to accrue;

(*d*) where the teacher is a continuing teacher, a notification of the amounts of the pension and lump sum which might be expected to be payable to him if he were to retire from service, being first class service or second class service, on a date specified, which shall be a date approximately three months after the day on which the notification is sent by the Secretary of State;

(*e*) the name and address of a duly qualified medical practitioner; and

(*f*) a statement of the closing date.

(2) The teacher shall, if he desires to make an allocation, furnish to the Secretary of State on the form of application for allocation the particulars required thereby in respect of the beneficiary. The beneficiary shall write his signature in the appointed space on that form. The teacher shall also, if required by the Secretary of State, furnish to the Secretary of State copies of the entries relating respectively to the beneficiary and himself in the register of births and the register of marriages certified by the registrars of births, deaths and marriages having custody of the said registers respectively or such other evidence and such information with regard to these and other matters as the Secretary of State may consider necessary.

(3) The Secretary of State may require such independent verification as he thinks fit of the particulars given by the teacher with regard to the beneficiary, and for this purpose he may require the beneficiary to make a declaration in the presence of and to be attested by a witness other than the teacher, stating the beneficiary's date of birth and (where appropriate) particulars of his marriage, his relationship to the teacher and whether he is wholly or partially dependent on the teacher.

(4) For the purpose of satisfying the Secretary of State that he is of good health, regard being had to his age, the teacher shall submit himself for examination under Rule 4 of these Rules by the duly qualified medical practitioner nominated by the Secretary of State under paragraph (1)(*e*) of this Rule.

(5) If, as a result of that examination, the Secretary of State is not satisfied that the teacher is of good health, he shall notify him accordingly and shall offer him an opportunity for a further medical examination.

(6) The decision of the Secretary of State upon the question whether the teacher is of good health shall be final and conclusive.

(7) Where the teacher is a retiring teacher, where the Secretary of State is satisfied that the teacher is of good health and where the date upon which the teacher's pension begins to accrue is postponed to a date more than three calendar months after the date of the medical examination, the Secretary of State may, if he thinks fit, require the teacher to undergo a further medical examination under Rule 4 of these Rules, and the two last foregoing paragraphs shall apply to the said examination as they applied to the examination mentioned in paragraph (4) of this Rule.

(8) If the Secretary of State is satisfied that the teacher is of good health and is also satisfied with the evidence and particulars furnished in accordance with paragraphs (2) and (3) of this Rule, he shall notify the teacher that he may make an allocation declaration.

(9) Every allocation declaration shall be made on a form provided by the Secretary of State and shall be sent to him by the teacher in accordance with the provisions of Rule 7 of these Rules in sufficient time to reach his office before midnight on the closing date.

(10) An allocation declaration which is not sent to the Secretary of State in sufficient time to reach his office before midnight on the closing date, or which does not comply with these Rules, shall be invalid.

(11) As soon as possible after the receipt of an allocation declaration, the Secretary of State shall inform the teacher concerned whether such declaration is valid or invalid. If the declaration is valid, he shall furnish the teacher with a statement of the amount by which his pension will be reduced on account of his making the allocation, and of the amount of the annuity, if any, which will be payable to him and of the pension which will be payable to the beneficiary. If the declaration is invalid, he shall state the grounds upon which the declaration has been held to be invalid.

(12) A teacher may cancel or amend an allocation declaration, other than a declaration sent to the Secretary of State in insufficient time to reach him before midnight on the closing date, by giving notice in writing to the Secretary of State on the form provided for the purpose at any time before midnight on the closing date but, save as is provided in the next following paragraph, no such notice may be given after the said time.

(13) If a retiring teacher who has made a valid allocation declaration is subsequently notified by the Secretary of State of an alteration in the amount or the estimated amount of his pension notified under paragraph (1)(*c*) of this Rule and if the notification under this paragraph is made less than fourteen days before the closing date or after the closing date but within six months after the day upon which his pension begins to accrue,

that teacher may amend that declaration by giving notice in writing to the Secretary of State on the form provided for the purpose not later than midnight of the fourteenth day after the receipt of such notification:

Provided that no notice of an amendment of an allocation declaration may be sent to the Secretary of State so as to reach him after the closing date except for the purpose of increasing or decreasing the amount of the pension to be surrendered by an amount not exceeding the increase or decrease (to the nearest pound) in the amount of pension previously notified to such teacher in accordance with paragraph (1)(*c*) of this Rule.

(14) An amendment of an allocation declaration shall not be valid if the allocation declaration as so amended does not comply with these Rules.

(15) Where a retiring teacher has been informed in pursuance of paragraph (11) of this Rule that an allocation declaration made by him is valid, that declaration shall remain valid, unless cancelled or amended by him in the manner and within the period permitted by these Rules, notwithstanding that, as a result of a subsequent alteration of the amount or estimated amount of his pension, the amount of pension to be surrendered no longer complies with Regulation 44(2)(*b*) or (*c*) or (*d*).

(16) An allocation declaration made by—

(*a*) a retiring teacher shall become null and void if either the teacher or the beneficiary dies before midnight on the closing date or before midnight on the day on which the declaration reaches or is deemed to have reached the Secretary of State, whichever is the later; or

(*b*) a continuing teacher shall become null and void if either he or the beneficiary dies before midnight on the closing date or before midnight on the day before the day on which the teacher attains the age of sixty years or before midnight on the day on which the declaration reaches or is deemed to have reached the Secretary of State, whichever is the later.

(17) Subject to the last foregoing paragraph, an allocation declaration by a retiring teacher shall have effect as from the day upon which his pension begins to accrue, and an allocation declaration by a continuing teacher from the day upon which, if he ceased to be employed in first class service or second class service, he would be entitled to a retiring allowance under Regulation 39 or the day following the date on which the declaration reaches or is deemed to have reached the Secretary of State, whichever is the later.

(18) Where, as the result of effect being given to an allocation declaration which reaches the Secretary of State on or after the day upon which the teacher's pension begins to accrue, any overpayment has been made to the teacher, such overpayment shall be brought into account on the next payment or payments due to him.

Payment of benefits under allocation

13. The provisions of Rule 9 shall with any necessary modifications apply to the payment of annuities and pensions under the last foregoing Rule as they apply to the payment of pensions and balances of pensions under Rule 9.

ELECTIONS AND APPLICATIONS

Election under Act of 1962, *s.* 105(1), *proviso (ii)—Calculation of contributions on former salary*

14.—(1) Where a teacher who suffers a reduction of salary while continuing to be employed or on being re-employed wishes to obtain the approval of the Secretary of State to make the election provided for in proviso (ii) to section 105(1) of the Act of 1962, he shall, within one month of suffering the said reduction, apply for approval on a form to be provided by the Secretary of State and shall make the election by completing the said form and returning it to the Secretary of State.

(2) Where a teacher who has made an election under this Rule desires to withdraw his election, he shall give notice in writing to the Secretary of State, and the withdrawal shall take effect from the first day of the month beginning not less than four weeks after the date of the notification.

Election under Act of 1962, *s.* 103—*Election by teachers for provisions of Part IV of the Regulations*

15. Where a teacher to whom section 103(2) of the Act of 1962 and Part III of the Teachers (Superannuation) (Scotland) Regulations 1957 apply, wishes to elect in terms of the proviso to the said section 103(2) that any of the provisions included in the Teachers (Superannuation) Regulations by virtue of the Teachers (Superannuation) Act 1956 or of the provisions of the Act of 1962 cited in Schedule 4 to the said Act shall apply to him, he shall intimate to the Secretary of State his election on a form to be provided by the Secretary of State. The said election shall be made within six months of his return to first class service.

Service not previously recordable

16.—(1) An application under Regulation 8(1) by a teacher in the employment of an education authority shall be submitted to the Secretary of State not more than six months after the date with effect from which a particular form of employment of teachers by an education authority is approved as being first class service (in this Rule referred to as " the date of approval "), or, if the teacher concerned was not in the employment of an education authority on the date of approval, within six months after the date upon which he first enters such employment.

(2) In order that employment after 31st May 1922, and before the date of approval may be treated as first class service, the appropriate contributions in respect thereof shall be paid by the teacher to the Secretary of State together with compound interest on the amount of the said contributions or on any part thereof remaining unpaid at four per cent. per annum with yearly rests from the beginning of the financial year next following the financial year in which the application to the Secretary of State was granted.

Recording of periods of experience

17. The approval under Regulation 9 by the Secretary of State of the whole or part of a period of experience and of the purposes for which and the conditions under which the said period or part may be recorded as first class service shall be intimated by the Secretary of State by sending to the teacher a form in duplicate setting out the said approval, purposes and conditions. If the teacher desires to accept the said approval, purposes and conditions he shall sign the intimation of acceptance on one copy of the form in the space provided for the purpose and shall return the said copy to the Secretary of State within three months of the date of the intimation by the Secretary of State. If the teacher does not intimate his acceptance in the manner and within the period prescribed in this Rule, the approval by the Secretary of State shall lapse.

Payment of contributions for breaks in service

18. Contributions payable to the Secretary of State under Regulation 12 and periodical contributions payable to the Secretary of State under Regulation 6 of the Family Benefits Regulations in respect of a period of current service which is recorded as first class service under the provisions of Regulation 12 shall be paid to the Secretary of State at such times as he may require.

Pensions of teachers returning to service

19. Where a teacher in receipt of a pension is employed in any of the following services, that is to say, first class service or English teaching service or Irish teaching service and wishes to elect that his pension shall be dealt with under Method B prescribed in Regulation 54(6), the election shall be made on a form provided by the Secretary of State. The said form shall be completed by the teacher, signed by him and returned to the Secretary of State within one month of the date upon which the form is dispatched to him.

SUPPLEMENTARY PROVISIONS

Revocation of Rules

20. The Teachers (Superannuation) (Scotland) Rules 1957(a) are hereby revoked:

Provided that—

(i) without prejudice to the provisions of section 38 of the Interpretation Act 1889 any thing done under any provision of the Rules hereby revoked which could have been done under a corresponding provision of these Rules shall be deemed to have been done under that provision ;

(ii) any step of procedure carried out under any provision of the Rules hereby revoked shall not be affected by such revocation ;

(iii) where any provision of these Rules is more beneficial to a teacher or other person than a corresponding provision of the Rules hereby revoked, the said provision shall not be construed as relating to any period before these Rules come into operation unless the Secretary of State otherwise directs.

Citation and commencement

21.—(1) These Rules may be cited as the Teachers (Superannuation) (Scotland) Rules 1965.

(2) These Rules shall come into operation on 29th May 1965.

William Ross,
One of Her Majesty's
Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
24th May 1965.

(a) S.I. 1957/583 (1957 I, p. 786).

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules prescribe the procedure to be followed in transactions between the Secretary of State, the Paymaster General, teachers and teacher-pensioners under the Teachers (Superannuation) (Scotland) Regulations 1957 as amended and between the Secretary of State and teachers and beneficiaries under the Teachers (Superannuation) (Family Benefits) (Scotland) Regulations 1965. They fix the periods within which various elections and applications relating to superannuation may normally be made.