SCOTTISH STATUTORY INSTRUMENTS

2001 No. 292

PENSIONS

The Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Amendment Regulations 2001

Made - - - -	*22nd August 2001*
Laid before the Scottish Parliament - - - -	*29th August 2001*
Coming into force - -	*1st October 2001*

The Scottish Ministers, in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972(**1**) and of all other powers enabling them in that behalf, after consulting with representatives of education authorities and teachers and with such representatives of other persons likely to be affected by the Regulations as appear to them to be appropriate in accordance with section 9(5) of that Act, and with the consent of the Treasury(**2**), hereby make the following Regulations:

Citation, commencement and effect, and interpretation

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Amendment Regulations 2001.

(2) These Regulations shall come into force on 1st October 2001 and shall have effect from 1st December 2000.

(3) In these Regulations, "the 1995 Regulations" means the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995(**3**).

Amendment of 1995 Regulations

2. The 1995 Regulations shall be amended in accordance with the following provisions.

(**1**) 1972 c. 11; section 9 was amended by sections 4(1), 8(3) and (4) and 11 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) and section 12 was amended by section 10 of that Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of functions to the Scottish Ministers etc.) Order 1999 (S.I.1999/1750).

(**2**) This function was transferred to the Treasury by the Transfer of Functions to the Scottish Ministers etc. Order 1981 (S.I. 1981/1670) and is still exercisable by virtue of S.I. 1999/1750, article 2 and Schedule 1.

(**3**) S.I. 1995/2814, amended by S.S.I. 2000/444.

3. In regulation 2(2) after the words "Income and Corporation Taxes Act 1988," there shall be inserted the words "references to the 1999 Act are references to the Welfare Reform and Pensions Act 1999(**4**)".

4. In regulation 2(3) there shall be inserted in the appropriate places in alphabetical order the following definitions:–

"the AVC Scheme" means the occupational pension scheme (within the meaning of section 1 of the Pension Schemes Act 1993(**5**)) established under section 9 of the Superannuation Act 1972 and these Regulations;

"pension credit" means a credit under section 29(1)(b) of the 1999 Act or under corresponding Northern Ireland legislation;

"pension credit benefits" means in relation to the AVC Scheme the benefits payable under that Scheme which are attributable (directly or indirectly) to a pension credit;

"pension credit member" means a person who has rights under the AVC Scheme which are attributable (directly or indirectly) to a pension credit either solely or wholly separately from any other rights under the AVC Scheme;

"pension debit" means a debit under section 29(1)(a) of the 1999 Act or under corresponding Northern Ireland legislation;

"pension debit member" means a person who has rights under the AVC Scheme and whose shareable rights under that Scheme are subject to a pension debit;

"pension sharing order" means a pension sharing order or other provision referred to in section 28(1) of the 1999 Act or article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**6**);

"shareable rights" means any rights a person has under the AVC Scheme except those rights referred to in regulation 2 of the Pension Sharing (Valuation) Regulations 2000(**7**).

5. After regulation 11(3) there shall be inserted–

"(4) The Scottish Ministers may pay a transfer value representing the value of a person's pension credit or of investments made under regulation 13A(2) in the circumstances of Chapter II of Part IVA of the Pension Schemes Act 1993(**8**) and regulations made under that Chapter(**9**).".

6. In regulation 12(11) the words "arising from the participator's service" shall be omitted.

7. After regulation 13 there shall be inserted–

"**Pension sharing on divorce**

13A.—(1) Pension sharing within the meaning of Part IV of the 1999 Act is available under the AVC Scheme in respect of all or part of a person's shareable rights as set out in this regulation except as otherwise provided and the Scottish Ministers shall discharge their liability in respect of a pension credit which derives from the AVC Scheme in accordance with paragraph 1 of Schedule 5 to the 1999 Act (pension credits: mode of discharge: funded pension schemes).

(2) Upon the taking effect of a pension sharing order, an amount representing the pension credit member's share of the pension debit member's accumulated additional voluntary

(**4**) 1999 c. 30.
(**5**) 1993 c. 48.
(**6**) S.I. 1993/3147 (N.I. 11).
(**7**) S.I. 2000/1052. See the Welfare Reform and Pensions Act 1999, section 27(2).
(**8**) Part IVA was inserted into the Pension Schemes Act 1993 by section 37 of the Welfare Reform and Pensions Act 1999.
(**9**) See Part III of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054).