SCOTTISH STATUTORY INSTRUMENTS

2001 No. 291

PENSIONS

The Teachers' Superannuation (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 of 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 and commencement

1. These Regulations may be cited as the Teachers' Superannuation (Scotland) Amendment Regulations 2001 and shall come into force on 1st October 2001.

Amendment of the Teachers' Superannuation (Scotland) Regulations 1992

2. The Teachers' Superannuation (Scotland) Regulations 1992(**3**) shall be amended in accordance with regulations 3 to 19 of these Regulations.

Further employment

3. In regulation B5 in paragraph (5) for "A person" there shall be substituted "Subject to regulation B8, a person".

(**1**) 1972 c. 11; section 9 was amended by section 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, article 2 and Schedule 1 (S.I. 1999/1750).

(**2**) This function was transferred to the Treasury by the Transfer of Functions (Minister for the Civil Service and Treasury 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. 1992/280, amended by S.I. 1992/1025 and 1597, 1993/490 and 2513, 1994/1715 and 2699, 1995/840 and 1670, 1997/676, 1999/446 and S.S.I. 2000/366.

4. After regulation B7 there shall be inserted the following regulation:–

"**Further employment**

B8.—(1) Subject to paragraph (2) and regulations B5 to B7, a teacher who is already in receipt of a teacher's pension, including cases where the annual rate of pension has been reduced to zero in accordance with regulation E15 (abatement of retirement pension) is in pensionable employment where on or after 1st October 2001 he enters into full-time or part-time service in an employment specified in Schedule 2.

(2) A teacher who is excluded from pensionable employment by virtue of regulation B5(5) shall not be in pensionable employment unless he makes an election under regulation B7 (resumption of membership).".

Salary on which contributions are payable - election

5. In regulation C1A–

(a) in paragraph (1) for "A teacher" there shall be substituted "Subject to paragraph (12) a teacher"; and

(b) after paragraph (11) there shall be inserted the following paragraph:–

"(12) Paragraph (1) shall not apply where a teacher is in pensionable employment by virtue of regulation B8.".

Additional contributions to purchase past added years

6. In regulation C3(1)(a) after "pensionable employment" there shall be inserted "otherwise than by virtue of regulation B8".

Additional contributions to purchase past added years in the case of a deceased teacher

7. In regulation C4 after paragraph (4) insert the following paragraph:–

"(5) This regulation does not apply to a teacher who at the date of his death was in pensionable employment by virtue of regulation B8.".

Additional contributions to purchase current added years

8. In regulation C8 after paragraph (13) insert the following paragraph:–

"(14) This regulation does not apply to a teacher in relation to pensionable employment by virtue of regulation B8.".

Repayment of returned contributions

9. In regulation C13 after paragraph (7) insert the following paragraph:–

"(8) This regulation does not apply to a teacher who is in pensionable employment by virtue of regulation B8.".

Qualification for retiring allowances

10. In regulation E4 after paragraph (2) there shall be inserted the following paragraph:–

"(2A) If a teacher was in pensionable employment by virtue of regulation B8, any period of 1 year in such employment is an appropriate qualifying period.".

Enhancement of retiring allowances in case of incapacity

11. In regulation E9–

(a) for sub-paragraph (a) of paragraph (1) there shall be substituted the following–

"(a) (i) where his pensionable employment terminates before 1st October 2001, he had completed periods of the kind described in Part I of Schedule 8 totalling at least 5 years, excluding any period in respect of which contributions have been returned to him and not repaid to the Scottish Ministers, or

(ii) where his pensionable employment terminates on or after 1st October 2001, he had completed periods of the kind described in Part I of Schedule 8 totalling at least 2 years, excluding any period in respect of which contributions have been returned to him and not repaid to the Scottish Ministers; and";

(b) for paragraph (2) there shall be substituted the following:–

"(2) In relation to a teacher who was in part-time service which was pensionable employment, this regulation shall not apply unless the aggregate of the periods of contract of employment during which the part-time service was given and the period of full-time service, if any, extends to at least 5 years, where pensionable employment terminates before 1st October 2001 and 2 years, where pensionable employment terminates on or after 1st October 2001."; and

(c) in paragraph (4) the words "at least 5 years but" shall be omitted.

Retiring allowances on cessation of further employment

12. In regulation E16(1)(b) after "("the further employment")" insert "(other than further employment to which regulation B8(1) applies)".

13. After regulation E16 there shall be inserted the following regulation:–

"**E16A.**—(1) This regulation applies–

(a) to a teacher who has been in further employment for the appropriate qualifying period under regulation E4(2A); and

(b) where such employment has ceased.

(2) A teacher to whom this regulation applies becomes entitled to payment of retirement benefits in accordance with paragraphs (3) to (6) by reference to his reckonable service in the further employment.

(3) Where regulation E5(1)(a)–(d) applies, subject to paragraph (6), a teacher's entitlement to retirement benefits takes effect–

(a) where, at the time of the application for benefits under regulation E31 the teacher was in pensionable or excluded employment, as from the day after the end of the employment; and

(b) in any other case on a date determined by the teacher making the application for benefits under regulation E31 being a date no earlier than 6 weeks after the date of such application.

(4) Where regulation E5(1)(e) applies, subject to paragraph (6), a teacher's entitlement to retirement benefits takes effect in accordance with regulation E5(2)(b).

(5) Where regulation E5(1)(f) applies, subject to paragraph (6), a teacher's entitlement to retirement benefits takes effect in accordance with regulation E5(2)(c).