

2014 No.

PENSIONS

**The Teachers' Superannuation (Scotland) Amendment
Regulations 2015**

Made - - - - - *2015*

Laid before the Scottish Parliament *2015*

Coming into force *1st April 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972(a) and all other powers enabling them to do so.

In accordance with section 9(5) of that Act, the Scottish Ministers have consulted with representatives of education authorities, teachers and such other persons likely to be affected by these Regulations as appear to them to be appropriate.

In accordance with section 9(1) of that Act, the Treasury has approved the making of these Regulations(b).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Scotland) Amendment Regulations 2015 and come into force on 1st April 2015.

(2) Regulation 3 has effect from 1st January 2015.

Amendment of the Teachers' Superannuation (Scotland) Regulations 2005

2. The Teachers' Superannuation (Scotland) Regulations 2005(c) are amended as follows.

New regulations A3 to A5

3. After regulation A2, insert—

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- (a) 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) ("the 1990 Act"), by section 190 of, and paragraph 7 of Schedule 8 to the Pension Schemes Act 1993 (c.48) and by article 107 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649). Section 12 was amended by section 10 of the 1990 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).
- (b) 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 remains exercisable by virtue of S.I. 1999/1750, article 2 and Schedule 1.
- (c) S.S.I. 2005/393, as amended by S.S.I. 2005/543, S.S.I. 2006/308, S.S.I. 2006/605, S.S.I. 2007/189, S.S.I. 2008/227, S.S.I. 2011/42, S.S.I. 2001/52, S.S.I. 2012/70, S.S.I. 2013/71., S.S.I. 2014/44 and S.S.I. 2014/69.

“Marriage of a same sex couple

A3.—(1) Subject to regulation A5, in these Regulations—

- (a) a reference to civil partnership is to be read as including a reference to marriage of a same sex couple;
- (b) a reference to civil partners is to be read as including a reference to a married same sex couple; and
- (c) a reference to a person who is in a civil partnership is to be read as including a reference to a person who is married to a person of the same sex.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, or a reference to a person whose civil partnership has ended) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2), it does not matter how a reference is expressed.

Living together as a same sex couple

A4.—(1) In these Regulations—

- (a) a reference to persons who are not in a civil partnership but are living together as civil partners is to be read as including a reference to a same sex couple who are not married but are living together as a married couple; and
- (b) a reference to a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2), it does not matter how a reference is expressed.

Continuation of marriage where scheme member acquires new legal gender

A5.—(1) Where—

- (a) a deceased scheme member was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
- (b) at the time of the member’s death, she was married to a woman and that marriage subsisted before the time when the certificate was issued,

the scheme member’s widow is to be treated for the purpose of these Regulations as if the certificate had not been issued.

(2) Where—

- (a) a deceased scheme member was a man by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
- (b) at the time of the member’s death, he was married to a man and that marriage subsisted before the time when the certificate was issued,

the scheme member’s widower is to be treated for the purpose of these Regulations as if the certificate had not been issued.”.

Amendment of regulation E10A

4. In paragraph (2)(b) of regulation E10A (total incapacity benefit where application received on or after 1st April 2007), for “12 months” (in both places) substitute “24 months”.

Substituted Part G

5. For Part G, substitute—

“PART G Transfer Values CHAPTER 1 General provisions

Application of Part

G1.—(1) This Part does not affect a teacher’s entitlement to a cash equivalent conferred by or under Chapter 4 of Part 4 of the 1993 Act.

(2) A transfer value in respect of any pension credit rights or pension credit benefits is not to be paid or accepted under this Part.

(3) A transfer value in respect of a teacher is not to be accepted under this Part if the previous scheme was a money purchase arrangement as defined in section 152 of FA 2004—

- (a) to which the teacher’s employer was not a contributor; and
- (b) which provided benefits additional to those provided by a scheme to which the teacher was a contributor.

(4) Under this Part a transfer value may not be paid in respect of the teacher’s phased retirement benefits in payment, only in respect of the teacher’s other benefits.

(5) A transfer value may be paid or accepted under this Part, in respect of the teacher, to the extent that paragraph (6) or (7) applies to the transfer value.

(6) A transfer value referable to the teacher’s NPA 65 reckonable service may be paid or accepted if—

- (a) the teacher has mixed service; and
- (b) the teacher’s NPA 60 reckonable service has come into payment.

(7) A transfer value referable to the teacher’s further employment may be paid if—

- (a) retirement benefits, a short-service serious ill-health grant or a short-service annuity have not come into payment in respect of that further employment; and
- (b) retirement benefits, a short-service serious ill-health grant or a short-service annuity have come into payment in respect of the previous employment.

Interpretation of Part

G2. In this Part—

“club transfer value”, in relation to reckonable service in this scheme or another club scheme, means an amount calculated—

- (a) in accordance with the club transfer arrangements; and
- (b) by reference to tables provided by the Government Actuary for this purpose that are in use on the date used for the calculation;

“CUKS transfer value”, in relation to reckonable service in this scheme or a comparable United Kingdom scheme, means an amount calculated in accordance with the arrangements for comparable United Kingdom scheme transfers;

“transfer value”, in relation to reckonable service which is not related to a club transfer value or a CUKS transfer value, under—

- (a) this scheme, means a value determined by the Scottish Ministers having taken advice from the Government Actuary; or
- (b) another scheme, means a value determined by the scheme actuary and accepted by the Scottish Ministers.

Reduction in transfer value: lifetime allowance charge

G3.—(1) This regulation applies where—

- (a) the lifetime allowance charge under section 214 of FA 2004 arises on the payment of a cash equivalent or a transfer value in respect of a teacher to a qualifying recognised overseas pension scheme; and
- (b) the teacher and the Scottish Ministers are jointly and severally liable to the charge.

(2) The Scottish Ministers must pay the charge.

(3) The cash equivalent or transfer value which, apart from this regulation, would be payable must be reduced to reflect the amount of the charge in such manner as the Scottish Ministers determine, after taking advice from the scheme actuary.

(4) In this regulation, “qualifying recognised overseas pension scheme” has the same meaning as in Part 4 of FA 2004.

CHAPTER 2

Transfers on a club basis

SECTION 1

Application of Chapter

Application of this Chapter

G4. This Chapter applies in relation to the payment and acceptance of club transfer values.

SECTION 2

Transfers out

G5.—(1) This Section applies to—

- (a) a teacher who ceases to be in pensionable employment and enters a club scheme;
- (b) a teacher who—
 - (i) ceases to be in pensionable employment;
 - (ii) enters a public service scheme established for teachers and maintained in the Channel Islands or the Isle of man on or before 31st March 2015; and
 - (iii) makes an application for a transfer value payment on or before 31st March 2017.

(2) Part 1 of Schedule 12 determines the amount of a club transfer value payment.

Payment under this Section

G6.—(1) A club transfer value may only be paid under this Section in respect of a teacher if the teacher satisfies the conditions in either paragraph (2) or (3).

(2) The conditions are that the teacher—

- (a) has left all pensionable employment under this scheme;
- (b) makes a written application to the Scottish Ministers within 12 months from the date on which the teacher becomes subject to another club scheme;

- (c) meets the requirements for a club transfer from the receiving scheme; and
 - (d) has not reached the age of 75.
- (3) The conditions are that the teacher—
- (a) has entered pensionable employment in a public service scheme for teachers established and maintained in the Channel Islands or the Isle of Man on or before 31st March 2015, after leaving this scheme, and makes a written application for a transfer value payment to the Scottish Ministers either—
 - (i) on or before the day on which P reaches the normal pension age; or
 - (ii) after the day on which P reaches the normal pension age, having entered pensionable employment—
 - (aa) on or before the day on which the teacher reaches the normal pension age; and
 - (bb) immediately after the end of the teacher’s employment in this scheme service; and
 - (b) makes the application on or before 31st March 2017.

Restrictions on the payment of a club transfer value

G7. Save as provided in regulation G1 (5) a club transfer value is not to be paid under this Section if, before a teacher’s application for a club transfer value payment is received, the teacher—

- (a) becomes subject to another club scheme and is in receipt of retirement benefits;
- (b) is in receipt of a short-service serious ill-health grant; or
- (c) is in receipt of a short-service annuity.

SECTION 3

Transfers in

Application of this Section

G8.—(1) This Section applies to—

- (a) a teacher who ceases to be in another club scheme and enters pensionable employment in this scheme; and
- (b) a teacher who—
 - (i) ceases to be in a public service scheme for teachers established and maintained in the Channel Islands or the Isle of Man on or before 31st March 2015;
 - (ii) enters pensionable employment in this scheme on or before 31st March 2015; and
 - (iii) makes an application for a transfer value payment on or before 31st March 2017.

(2) A teacher in respect of whom a club transfer value is accepted is entitled to count reckonable service in accordance with Part II of Schedule 12.

Receipt under this Section

G9.—(1) A club transfer value may be accepted under this Section in respect of a teacher if the teacher satisfies the conditions in either paragraph (2) or (3).

- (2) The conditions are that the teacher—
 - (a) enters pensionable employment;

- (b) makes a written application to the Scottish Ministers within 12 months from the date on which the teacher enters pensionable employment;
 - (c) makes the application before the teacher attains the age of 75; and
 - (d) before the teacher ceased to be subject to the previous scheme, retirement benefits have not come into payment to the teacher either—
 - (i) under regulation E6 (retirement benefits); or
 - (ii) under a provision of a statutory scheme corresponding to regulation E6.
- (3) The conditions are that the teacher—
- (a) enters pensionable employment on or before 31st March 2015, after leaving a public service scheme for teachers established and maintained in the Channel Islands or the Isle of Man; and either—
 - (i) makes a written application to the Scottish Ministers on or before the day on which the teacher reaches the normal pension age; or
 - (ii) makes the application after the day on which the teacher reaches the normal pension age, having entered pensionable employment—
 - (aa) on or before the day on which the teacher reaches the normal pension age; and
 - (bb) immediately after the end of the teacher’s employment in the previous scheme service; and
 - (b) makes the application on or before 31st March 2017.

CHAPTER 3

Transfers on a comparable United Kingdom service basis

SECTION 1

Application of Chapter

Application of this Chapter

G10. This Chapter applies in relation to the payment and acceptance of CUKS transfer values.

SECTION 2

Transfers out

Application of this Section

G11.—(1) This Section applies if—

- (a) a teacher ceases to be in pensionable employment and has become subject to a comparable United Kingdom scheme on or before 31st March 2015; and
- (b) the teacher makes an application for a transfer value payment on or before 31st March 2017.

(2) Part I of Schedule 12 determines the amount of a CUKS transfer value payment.

Payment under this Section

G12.—(1) A CUKS transfer value may only be paid under this Section in respect of a teacher if either paragraph (2) or (3) applies.

(2) This paragraph applies if the teacher makes an application for a CUKS transfer value payment on or before the day the teacher reaches the normal pension age.

(3) This paragraph applies if—

- (a) the teacher makes an application for a CUKS transfer value after the day on which the teacher reaches the normal pension age;
- (b) the teacher joined the comparable United Kingdom scheme—
 - (i) immediately after ceasing to be in pensionable employment; and
 - (ii) before reaching the normal pension age; and
- (c) before the teacher's application for a CUKS transfer value payment is received, the teacher is not in receipt of—
 - (i) retirement benefits from the other comparable United Kingdom scheme;
 - (ii) a short-service serious ill-health grant; or
 - (iii) a short-service annuity.

SECTION 3

Transfers in

Application of this Section

G13.—(1) This Section applies if a teacher—

- (a) ceases to be in a comparable United Kingdom scheme;
- (b) enters pensionable employment in this scheme on or before 31st March 2015; and
- (c) makes an application for a transfer value payment on or before 31st March 2017.

(2) A teacher in respect of whom a CUKS transfer value is accepted is entitled to count reckonable service in accordance with Part II of Schedule 12.

Receipt under this Section

G14.—(1) A CUKS transfer value payment may be accepted under this Section in respect of a teacher to whom this Section applies, if either paragraph (2) or (3) applies.

(2) This paragraph applies if—

- (a) the teacher makes an application for a CUKS transfer value on or before the day on which the teacher reaches the normal pension age; and
- (b) when the teacher's application is received, the teacher is not in receipt of—
 - (i) retirement benefits under this scheme;
 - (ii) a short-service serious ill-health grant; or
 - (iii) a short-service annuity.

(3) This paragraph applies if the teacher—

- (a) makes an application for a CUKS transfer value after the day on which the teacher reaches the normal pension age; and
- (b) the teacher entered pensionable employment—
 - (i) immediately after ceasing comparable UK service; and
 - (ii) on or before the date on which the teacher reaches the normal pension age.

CHAPTER 4

Transfers on a cash equivalent basis

SECTION 1

Application of Chapter

Application of this Chapter

G15. This Chapter applies in relation to the payment and acceptance of transfer values.

SECTION 2

Transfers out

Application of this Section

G16.—(1) This Section applies if a teacher ceases to be in pensionable employment and has become subject to another registered pension scheme.

(2) This Section only applies to a teacher who ceases to be in pensionable employment and becomes subject to a personal pension scheme if the teacher was in pensionable employment after 31st December 1985.

Payment under this Section

G17. A transfer value may only be paid under this Section in respect of a teacher if the teacher—

- (a) has left all pensionable employment under this scheme;
- (b) makes a written application for a transfer value payment to the Scottish Ministers within 12 months from the date on which the teacher becomes subject to another registered pension scheme; and
- (c) has not reached the normal pension age when the teacher's application is received.

Restrictions on the payment of a transfer value

G18. A transfer value is not to be paid under this Section if, before a teacher's application for a transfer value payment is received, the teacher is in receipt of—

- (a) retirement benefits under this scheme;
- (b) a short-service serious ill-health grant; or
- (c) a short-service annuity.

Limitation in payment of transfer values

G19.—(1) Where the receiving scheme is not a contracted-out occupational pension scheme, a transfer value may only be paid under this Section if the teacher—

- (a) is not qualified for retirement benefits; or
- (b) has ceased to be in pensionable employment before 6th April 1978; or
- (c) is a married woman or widow who, by virtue of an election made or treated as made under regulations under section 19(4) of the Social Security Contributions and Benefits Act 1992, either is liable to pay primary Class 1 contributions or Class 2 contributions at a reduced rate or is under no liability to pay Class 2 contributions.

(2) Where a teacher has accrued section 9(2B) rights, a transfer value may only be paid in respect of those rights if any applicable provisions of Part 3 of the Contracting-Out (Transfer and Transfer Payments) Regulations 1996 are complied with.

(3) Where the teacher has acquired a right to a cash equivalent, a transfer value may only be paid under this Section if—

- (a) the service to which the cash equivalent relates includes service before 1st September 1988; and
- (b) the right has been exercised by requiring the whole of the cash equivalent to be paid to the scheme managers of an occupational pension scheme which is not a club scheme.

(4) Where the teacher has acquired a right to a part cash equivalent, a transfer value may only be paid under this Section if the teacher would not remain qualified for retirement benefits on taking that right.

(5) In this regulation—

“occupation pension scheme” has the same meaning as in section 150(5) of FA 2004; and

“receiving scheme” means the scheme a teacher becomes subject to after leaving pensionable employment.

SECTION 3

Transfers in

Application of this Section

G20.—(1) This Section applies if a teacher ceases to be in another registered pension scheme and enters pensionable employment.

(2) A teacher in respect of whom a transfer value on a cash equivalent basis is accepted is entitled to count reckonable service in accordance with Part II of Schedule 12.

Receipt under this Section

G21. A transfer value may be accepted under this Section in respect of a teacher who enters pensionable employment if—

- (a) the teacher makes a written application to the Scottish Ministers within 12 months from the date on which the teacher enters pensionable employment; and
- (b) the teacher’s application is made before the teacher attains the normal pension age.

Restrictions on the acceptance of a transfer value

G22. A transfer value payment in respect of a teacher may not be accepted under this Section if, before the teacher’s application for a transfer value payment is received, the teacher is in receipt of—

- (a) retirement benefits under this scheme;
- (b) a short-service serious ill-health grant; or
- (c) a short-service annuity.

CHAPTER 5

Bulk transfers

SECTION 1

Transfers out

Payment of bulk transfer values

G23.—(1) This regulation applies where, as a result of a relevant transfer to a new employer, a teacher or a group of teachers is no longer in pensionable employment and either has joined or is entitled to join the new employer’s pension scheme (“the receiving scheme”), referred to below as a bulk transfer.

(2) A transfer value may be calculated by the Scottish Ministers, after taking advice from the scheme actuary, in respect of a teacher who has made a written application to the Scottish Ministers for such a transfer within 3 months after the date on which the teacher was notified of the opportunity to take part in the bulk transfer arrangement.

(3) Such a transfer value may be paid to the receiving scheme on the teacher becoming subject to the scheme.

SECTION 2

Transfers in

Acceptance of bulk transfer values

G24.—(1) This regulation applies where, as the result of a relevant transfer to a new employer, a teacher or a group of teachers has become employed in pensionable employment and is given the opportunity to transfer past service pension rights, referred to below as a “bulk transfer”.

(2) A transfer value may be accepted by the Scottish Ministers in respect of a teacher who has made a written application within 3 months after the date on which the teacher was notified of the opportunity to take part in the bulk transfer, but this paragraph is subject to regulation G22.

(3) A teacher in respect of whom a transfer of such rights has been accepted as part of a bulk transfer is entitled to count reckonable service in accordance with Part II of Schedule 12.”.

New regulations to replace regulation E18

6. For regulation E18, substitute—

“Interpretation: abatement of pension

E18. In this regulation and regulations E18A to E18D—

“abatable pension” means the sum of a teacher’s retirement pension—

- (a) disregarding the effect of any reduction under regulation E18D; and
- (b) excluding—
 - (i) phased retirement pension;
 - (ii) additional pension;
 - (iii) a pension (or part of a pension) which is payable to the teacher by reason of retirement with actuarial adjustment applying to the teacher’s reckonable service; and

(iv) retirement benefits defined in and payable under the Teachers' Pension Scheme (Scotland) (No. 2) Regulations 2014;

“adjusted salary of reference” for a teacher is—

- (a) if the teacher's previous employment was full-time, the higher of—
 - (i) the highest salary taken into account in determining the teacher's pensionable salary under regulation E34 or E34A, multiplied by the adjustment factor; or
 - (ii) (if applicable) the highest salary taken into account in determining the teacher's pensionable salary under regulation E34 or E34A relating to the teacher's further employment, multiplied by the adjustment factor;
- (b) if the teacher's previous employment was part-time, the higher of the full-time equivalent of—
 - (i) the highest salary taken into account in determining the teacher's pensionable salary under regulation E34 or E34A, multiplied by the adjustment factor; or
 - (ii) (if applicable) the highest salary taken into account in determining the teacher's pensionable salary under regulation E34 or E34A relating to the teacher's further employment, multiplied by the adjustment factor;
- (c) if the teacher becomes entitled to a further retirement pension during a tax year, and the salary of reference for the teacher's employment immediately prior to the further retirement (“the new higher salary of reference”) is higher than that for the previous employment (“the existing salary of reference”), the sum of—
 - (i) the existing salary of reference divided by 365 multiplied by the number of days from the beginning of the tax year to the day before the further retirement; and
 - (ii) the new higher salary of reference divided by 365 multiplied by the number of days from the date of entitlement to further retirement benefits to the end of the tax year;

“adjustment factor” for a salary is the amount (if any) by which, immediately before the first day of the employment, that salary would have increased if it had been the annual rate of an official pension as defined in section 5(1) of PIA 1971, beginning and first qualifying for increases under that Act, on the same date as—

- (a) the last day of employment at that salary, in a case where the pensionable salary was determined under regulation E34;
- (b) the retirement pension, in a case where the pensionable salary was determined under regulation E34A;

“initial adjusted salary of reference” is a teacher's adjusted salary of reference divided by 365 and multiplied by the number of days in the initial period;

“initial period” is that part of a tax year running from a teacher's entitlement day in respect of retirement benefits and ending at the end of the tax year;

“pension receipts” means the sum of a teacher's retirement pension—

- (a) including—
 - (i) phased retirement pension;
 - (ii) a pension (or part of a pension) which is payable to the teacher by reason of—
 - (aa) retirement on or after reaching normal pension age;
 - (bb) premature retirement; or
 - (cc) early retirement with actuarial adjustment applying to the teacher's reckonable service and to mandatory and discretionary compensation for premature retirement under the Teachers (Compensation for

Premature Retirement and Redundancy) (Scotland) Regulations 1996(a);

(iii) an ill-health pension which began to be paid before 1st April 1997, including where the annual rate of the pension has been reduced to zero because the teacher entered full-time employment or ceased to be incapacitated (as referred to in regulation E14(1) of the Teachers' Superannuation (Scotland) Regulations 1992(b));

(iv) retirement benefits defined in and payable under the Teachers' Pension Scheme (Scotland) (No. 2) Regulations 2014; and

(b) excluding additional pension; and

“salary” means—

(a) contributable salary;

(b) pensionable earnings as defined in Chapter 4 of Part 3 of the Teachers' Pension Scheme (Scotland) (No. 2) Regulations 2014.

Scope of abatement of retirement pension following further employment

E18A. Regulation E18B applies to a teacher to whom retirement benefits have become payable and who is employed—

(a) in pensionable employment, comparable United Kingdom service or employment which would have been pensionable but for—

(i) the teacher having made an election under regulation B7 (election for employment not to be pensionable); or

(ii) the teacher having reached the age of 75; or

(b) in part-time or full-time employment which is not pensionable employment which falls within regulation B6.

Abatement of a retirement pension following further employment

E18B.—(1) Where this regulation applies to a teacher and the teacher is in an initial period—

(a) if the teacher's salary in the employment during the initial period equals or exceeds the teacher's initial adjusted salary of reference, no abatable pension is to be paid in that tax year;

(b) in any other case, the abatable pension to which the teacher is entitled in the initial period is to be paid only in respect of X number of days, where—

$$X = A / B$$

and where -

A is the amount by which the teacher's salary in the employment during the initial period falls short of the teacher's initial adjusted salary of reference; and

B is the total of the teacher's pension receipts for the initial period divided by the number of days in the initial period.

(2) Where this regulation applies to the teacher and the teacher is not in an initial period—

(a) S.I. 1996/2317.

(b) S.I. 1992/280.

- (a) if the teacher's salary in the tax year equals or exceeds the teacher's adjusted salary of reference, no abatable pension is to be paid in that tax year;
- (b) in any other case, the abatable pension to which the teacher is entitled in that tax year is to be paid only in respect of X number of days, where—

$$X = A / B$$

and where –

A is the amount by which the teacher's salary in the employment during the tax year falls short of the teacher's adjusted salary of reference; and

B is the total of the teacher's pension receipts for the tax year divided by 365.

Method of abatement

E18C.—(1) Where the abatable pension of a teacher falls to be reduced—

- (a) under regulation E18B(1), paragraph (2) applies; or
- (b) under regulation E18B(2), paragraph (3) applies.

(2) Where this paragraph applies, the Scottish Ministers are to pay the teacher's abatable pension in accordance with regulation E36 (monthly and quarterly payments), without taking account of regulation E18B(1)(b), on the assumption that the teacher will remain in employment at the same salary for the remainder of the initial period.

(3) Where this paragraph applies, the Scottish Ministers are to pay the teacher's abatable pension in accordance with regulation E36 (monthly and quarterly payments) without taking account of the reduction, until the abatable pension has been paid in respect of the number of days calculated in regulation E18B(2)(b), on the assumption that the teacher will remain in employment at the same salary for the remainder of the tax year.

(4) When the teacher's abatable pension has been paid in respect of the number of days calculated in regulation E18B(1)(b) or (2)(b), paragraph (5) applies unless the teacher ceases to be in the employment, or is in employment at a lower salary, in which case paragraph (6) applies.

(5) If this paragraph applies, the Scottish Ministers are to pay no further payable abatable pension to the teacher in respect of—

- (a) the remainder of the initial period, if regulation E18B(1)(b) applies; or
- (b) the remainder of the tax year, if regulation E18B(2)(b) applies.

(6) If this paragraph applies the Scottish Ministers are to pay the teacher's abatable pension during the remainder of the initial period or tax year, of such amount and at such times as is necessary in order to achieve the outcome described in—

- (a) regulation E18B(1)(b) in respect of an initial period; or
- (b) regulation E18B(2)(b) in respect of a tax year.

Recovery of overpaid pension

E18D.—(1) If the abatable pension paid in any tax year has exceeded the amount which should have been paid by virtue of regulation E18B and E18C, the difference between the amount which has been paid and the amount which should have been paid is an overpayment to which paragraph (2) applies.

(2) Where this paragraph applies, the overpayment is recoverable and (without prejudice to any other means of recovery) may be recovered in whole or in part by a reduction in the abatable pension paid in any subsequent tax year."

Amendment of regulation J6B

7. In paragraph (1)(b) of regulation J6B(a) (reduction of benefits: lifetime allowance and lifetime allowance charge), for “section 238A” substitute “section 237B(b)”.

Amendment of Schedule 1

8. In Schedule 1 (glossary of expressions)—

(a) insert the following definitions at the appropriate place in each case—

| | |
|-------------------------------------|--|
| “club scheme” | A registered pension scheme which— (a) is a contracted-out scheme or is a scheme established and maintained in the Channel Islands or the Isle of Man which is not a contracted-out scheme; (b) is a final salary scheme; (c) is a scheme which is open to new participants (“open scheme”) or, if not a scheme so open (“closed scheme”), is a scheme whose trustees or managers also provide an open scheme which is a scheme for new employees of the same employer and of the same grade or level of post as participants of the closed scheme; and (d) is a scheme whose trustees or managers have undertaken to comply with the reciprocal arrangements for the payment and receipt of transfer values agreed from time to time between the trustees or managers of such a scheme. |
| “contributions refund period” | A period in respect of which contributions have been or are to be repaid and— (a) have not been, or fallen to be treated as having been, refunded; or (b) have been returned but have since been repaid. |
| “comparable United Kingdom service” | For transfer purposes, service pensionable |

(a) Regulation J6B was substituted by S.S.I. 2014/69.

(b) Section 237B was inserted by the Finance Act 2011 (c.11), Schedule 17.

| | |
|------------------------------------|--|
| | under a comparable United Kingdom scheme. |
| “comparable United Kingdom scheme” | For transfer purposes, service pensionable under a comparable United Kingdom scheme. |
| “FA 2004” | The Finance Act 2004. |
| “PIA 1971” | The Pensions (Increase) Act 1971. |

- (c) in the definition of “short-service serious ill-health grant”, for “Regulation E21A” substitute “regulation E21”.

Amendment of Schedule 12

9. In Schedule 12 (transfer values)—

- (a) in paragraph 1, for “regulation G1” substitute “regulations G6, G12 and G17”;
- (b) in paragraph 4(c), for “regulation G1” substitute “regulations G6, G12 and G17”;
- (c) in paragraph 6(b), for “regulation G1(6)” substitute “regulation G19”;
- (d) in paragraph 7—
- (i) in sub-paragraph (a), for “regulation G1(4)(b)” substitute “regulation G19”; and
- (ii) in sub-paragraph (b), for “regulation G1(11)(b)(i)” substitute “regulation G19”;
- (e) in paragraph 13—
- (i) in sub-paragraph (2)(b), for “regulation G1” substitute “regulation G17”;
- (ii) for sub-paragraph (3)(a)(i), substitute—
- “(i) in a case where a transfer value was paid to the Scottish Ministers pursuant to regulation G21 within 4 weeks of the notice under regulation G14, an amount, determined actuarially, which represents the income which would have been received had such sum been invested during the period starting at the end of the month in which the transfer value was paid under regulation G12 and ending at the end of the month in which the notice under regulation G14 was made;”;
- (iii) in sub-paragraph (3)(a)(ii), for “regulation G2(1)” substitute “regulation G14”;
- (iv) in sub-paragraph (3)(b), for “regulation G1” substitute “regulation G17”;
- (v) in sub-paragraph (4), after “applies” insert “and subject to sub-paragraph (5),”;
- (vi) after sub-paragraph (4), insert—
- “(5) Where this paragraph applies and the transfer value is a CUKS transfer value, the teacher is entitled to count as reckonable service the period of service under a comparable United Kingdom scheme certified by the scheme managers as having stood to the teacher’s credit under the scheme when the teacher ceased to be subject to the scheme.”.

A member of the Scottish Government

St Andrew’s House,
Edinburgh

2014

2014

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)