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Dear Sir or Madam

**SUPERANNUATION (TEACHERS) CIRCULAR No 2007/2  
THE TEACHERS' SUPERANNUATION (SCOTLAND) AMENDMENT REGULATIONS 2007  
(SSI 2007/189)**

The purpose of this circular is to inform teachers, their employers and representatives, and other interested parties of the making of the above Regulations, which make amendments to the Teachers' Superannuation (Scotland) Regulations 2005 ("the 2005 Regulations"), the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996 ("the 1996 Regulations") and the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995 ("the AVC Regulations"). I would be grateful if this circular could be distributed as widely as possible to members.

A copy of SSI 2007/189 will be available shortly from the OPSI website [www.opsi.gov.uk](http://www.opsi.gov.uk).

The Regulations will come into force on 1 April 2007 and employers and members are asked to note that the contribution rates will increase from that date as follows:

- |                                |   |
|--------------------------------|---|
| • Employer's contribution rate | 13.5% (previous circular 2006/6 refers) |
| • Member's contribution rate   | 6.4%                                    |

The main changes are described in Annexes A to C attached. Information will also be available on the SPPA website, along with various modellers and application forms.

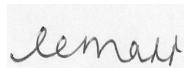


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SPPA advise that it is preferable to download scheme literature and forms from our website to ensure that the latest version is obtained.

Enquiries about the contents of this circular should be sent to me at the above address. Teachers who are interested in making use of any of the new provisions should contact the appropriate Teachers' Team for their area if the information they require is not available on our website. Contacts are listed below.

Yours faithfully



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## The Teachers' Superannuation (Scotland) Regulations 2005

Material changes to these regulations (grouped into subject areas) are as follows:

### CHANGES TO EXISTING SCHEME PROVISIONS

#### *Upper Age Limit*

1. The upper age for pensionable employment has been increased from 70 to 75.

#### *Total reckonable service limits*

2. The 40 year limit on the amount of reckonable service (service that counts in the calculation of pension) that can count in the calculation of retirement benefits at age 60 has been removed.
3. It is possible that some teachers may have opted out prior to 1 April 2007 because of the '40 year' rule and if employers are aware of such people they should be advised of this rule change so that they can consider whether they wish to opt back in to pensionable employment. Only post 1 April 2007 service can be counted towards service beyond 40 years.
4. The overall +45 year limit on the amount of reckonable service that can count in the calculation of retirement benefits has been retained.

### Scheme Finance

#### *Employee and employer contribution rates*

5. From 1 April 2007, the employee and employer contribution rates will be 6.4% and 13.5% respectively. The employer contribution rate is expected to rise further as a result of the 2005 scheme valuation to around 14.25% in April 2008 (final figure will be available following the 2005 scheme valuation report which will be available later this year).

#### *Cost sharing*

6. Future employee contribution rates will be set as equal to the employee rate applied at the equivalent scheme valuation in the Teachers' Pension Scheme (England and Wales). This rate will have been set following a process that leads to the sharing of most additional costs or savings between the employee and employer contribution rates.

7. The link between the future Scottish member contribution rate and that set in the Teachers' Pension Scheme (England and Wales) will be subject to review if the scheme valuations highlight difficulties relating to this mechanism or if the contribution rate identified in the scheme valuation in Scotland varies by more than one percent of pensionable pay from that in England and Wales following an equivalent scheme valuation. In such cases, the Scottish Ministers may consider amending the regulations for setting contribution rates. Any such amendment would take place following consultation with stakeholders and teachers' representatives and with the consent of HM Treasury.



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## Scheme benefits

### *'Normal Pension Age' (NPA)*

8. New entrants to the STSS (ie those members who join on or after 1 April 2007 for the first time) will have an NPA of 65. This does not mean that retirement benefits cannot be accessed before attaining that age, but benefits paid before attaining age 65 would be subject to actuarial reduction. However, reckonable service with an NPA of 65 is subject to an improved accrual rate (see paragraph 11 below).

9. Existing scheme members ('pre-2007 entrants') will continue to be entitled to an NPA of 60. The exception will be if there is a 'relevant break in service' in which case **future** service will carry an NPA of 65.

10. In broad terms, a 'relevant break in service' is a five year period ending after 31 March 2008 when a teacher was not in pensionable employment. To retain an NPA of 60 for future service, scheme members must accrue 60 days' pensionable service or 30 days' reckonable service (whether continuous or not) over a rolling 12 month period starting within that five year period. SPPA will confirm the position in individual cases.

### *Accrual rates of retirement benefits*

11. Service that accrues under an NPA of 65 will provide a pension at the rate of 1/60<sup>th</sup> of pensionable salary (see paragraph 15 for details of the new pensionable salary arrangements) with the option to commute up to 25% of the capitalised value of the pension as a tax-free retirement lump sum by exchanging £1 of annual pension for every £12 of lump sum.

12. Service that accrues under an NPA of 60 will continue to provide a pension at the rate of 1/80<sup>th</sup> of pensionable salary plus a tax-free retirement lump sum of 3/80<sup>ths</sup> of pensionable salary. Scheme members with pensionable employment on or after 1 April 2007 will have the option of taking a higher tax-free lump sum up to the maximum of 25% of the fund value.

### *Minimum Pension Age of 55*

13. In line with HM Revenue and Customs rules on minimum retirement ages, the Teachers' Superannuation (Scotland) Regulations 2005 were amended with effect from 30 June 2006 to provide a minimum pension age of 55 for new entrants to the STSS. MPA of 50 will continue to apply until 2010 to existing scheme members, including those who re-join the scheme on or after 30 June 2006, provided the previous service remains to their credit (ie the service has not been cancelled by a repayment of contributions or by payment of a transfer value). Scheme members who enter pensionable employment for the first time on or after 30 June 2006 but had previously been in comparable British service (CBS) will retain an MPA of 50, again provided the service has not been cancelled by a repayment or a transfer value, except where the transfer value has been paid to the STSS.

**Annex A**

14. The Regulations have now been further amended to prescribe that from 6 April 2010, with the exception of scheme members who have reached the age of 50 before 6 April 2010 and those members retiring on grounds of ill health (for whom there is no minimum pension age in the STSS), no scheme member will be able to draw retirement benefits before attaining the age of 55.

*Pensionable salary used to calculate retirement benefits*

15. For scheme members who have service on or after 1 April 2007, the pensionable salary used to calculate retirement benefits will be calculated on a new '10 year' method whereby the pensionable salary will be the best of:

(a) the final year's salary; or

(b) the average of the best three consecutive years in the final 10 year period of service (ie the best 1095 consecutive days of service in the last 10 calendar years) index linked up to the date when the pensionable salary period ended.

16. The '10 year' pensionable salary method is a scheme improvement and will be advantageous to the vast majority of scheme members. But as a precaution against situations where this might not be the case, the regulations contain transitional cover for scheme members whose retirement benefits go into payment on or after 1 April 2007 and before 31 March 2009. In those cases, the pensionable salary will be the better of the (old) 'three year' method and the (new) final year or '10 year' method.

17. The regulation that protects the STSS against 'excessive salary' increases prior to retirement has been adapted in the light of the '10 year' pensionable salary model. The regulation will apply to cases where an 'excessive' increase in salary occurred in the final three years of service and, as a consequence, the final year's salary was better than any three year average.

*Revised ill-health retirement benefits*

18. Ill health retirement applications received on or after 1 April 2007 will be considered under the new arrangements which provide for the payment of Partial Incapacity Benefits (PIB) or Total Incapacity Benefits (TIB):

- PIB will be awarded to those who are permanently incapable of teaching but capable of other gainful employment. Benefits will be based on reckonable service ie no enhancement and they will not be liable for review once awarded.
- TIB will be awarded to those who are permanently incapable of teaching and other gainful employment (ie the member's ability to carry out any work has been permanently impaired by more than 90%). Benefits will comprise (i) benefits based on pensionable service and (ii) enhancement based on half prospective service up to their NPA.

19. Deferred scheme members who apply for ill health retirement benefits must meet the TIB criteria but will be awarded PIB (benefits based on reckonable service with no enhancement.)

*Restriction on recycling lump sums*

20. HM Revenue and Customs rules contain tax penalties on individuals who use a tax free lump sum to generate further retirement benefits. Schemes are also subject to penalty, therefore it has been necessary to include a statutory condition that entitlement to a retirement lump sum from the STSS depends on the scheme member providing a written declaration undertaking not to re-cycle any lump sum from the STSS into another pension savings vehicle. If a declaration is required but is not received, any lump sum which would have been paid may be converted to annual pension using factors supplied by the Government Actuary.

*Retirement benefits payable on or after a scheme member's 75<sup>th</sup> birthday*

21. HM Revenue and Customs legislation stipulates that no retirement lump sum can be paid after age 75. In this event, therefore, the retirement lump sum will be converted to pension.

*Duration of spouses', civil partners' and surviving nominated partners' pensions*

22. Spouses', civil partners' and surviving nominated partners' pensions that are payable in respect of scheme members who retire on or after 1 April 2007 will be payable for the lifetime of the recipient.

23. Spouses' and civil partners' pensions payable in respect of scheme members who retired on a date prior to 1 April 2007 will remain liable to cessation on the recipient's remarriage, formation of civil partnership or cohabitation.

24. Details about the surviving nominated partner pension arrangements are below (see paragraph 26).

*Death Grant*

25. The death grant payable in respect of scheme members who die in-service on or after 1 April 2007 will be three times the pensionable salary (less any lump sum payments already made).

**NEW SCHEME PROVISIONS****Pensions for Partners (opposite-sex and same-sex)***Nomination arrangements*

26. From 1 April 2007, single scheme members (including future deferred scheme members and pensioners who have acquired sufficient qualifying service) are able to nominate a partner to receive a surviving nominated partner (SNP) pension.

27. In order to nominate a partner, the scheme member or pensioner must be legally free to marry or enter a civil partnership. The nomination must be accompanied by a joint declaration by the scheme member and the nominee confirming that they have lived together as if they were husband and wife or civil partners continuously for at least two years and that there is financial dependency or interdependency. However, entitlement to the pension will depend on the provision of evidence by the surviving partner on the scheme member's death that the conditions are met.



**Annex A**

28. Pensionable service accrued from 1 April 2007 will automatically count towards pensions for SNPs. Scheme members can elect to pay additional contributions to cover service before 1 April 2007 provided they are in pensionable employment. There is a time limit for making an election.

29. Full information about the nomination arrangements and the arrangements for paying additional contributions to cover service before 1 April 2007 will shortly be available on our website.

*Potential impact on children's pensions*

30. If a SNP pension is payable, the pension paid to a surviving child of the scheme member would be at the normal children's pension rate of 1/320<sup>th</sup>. If no SNP is payable in respect of a scheme member who is single at death, the children's pension would be paid at the orphan's rate of 1/240<sup>th</sup>.

**Additional pension**

31. The Past Added Years arrangement will be withdrawn and replaced with a facility for scheme members (and employers) to purchase index-linked additional annual pension up to a maximum of £5,000. The minimum amount of additional annual pension that may be purchased at any one time is £250. The upper limit is currently £5,000, which will be uprated in line with RPI. The upper limit will be subject to periodic review by HM Treasury.

32. Payment to purchase additional pension may be made by a lump sum payment or by monthly deductions from salary over a defined period not exceeding 20 years or the scheme member's NPA, whichever is sooner.

33. The additional pension purchased can be for personal benefits only or personal and survivor benefits. (There is no option to purchase additional pension for a survivor pension only.) The additional pension purchased will be increased in line with RPI between the date of the election and the date the additional pension is paid. Once in payment, the additional pension will be uprated, in the same way as the main scheme pension.

**Phased retirement**

34. All scheme members with reckonable service on or after 1 April 2007 will have the option of drawing down part of their main scheme benefits from age 55 onwards whilst continuing in pensionable employment, provided certain conditions are met.

35. Full information will be available shortly on our website but in broad terms, a teacher can use this facility provided there has been a 25% reduction in the pensionable salary and a maximum of 75% of retirement benefits can be taken.

36. Additional pension can be drawn at the same time as a phased retirement providing that it has been paid for but the additional pension must be drawn in full.

**Winding Down Employment**

37. The regulations have been amended to remove the requirement that the '25 years teaching service' must be immediately prior to entering winding down employment. Consequently, teachers



**Annex A**

who have had a break in service of more than 5 years may qualify for winding down employment, although only 5 years will count towards the qualifying service of 25 years.

**SCHEME PROVISIONS WITHDRAWN**

**Past Added Years and Current Added Years**

38. From 1 April 2007 the Past Added Years and Current Added Years provisions will no longer be available. Prior elections will be honoured although members will be unable to vary them.

**Stepping Down arrangements**

39. The ‘stepping down’ provision which provided for payment of a two-part pension in circumstances where an employer certified that a teacher had moved to a lower paid post of less responsibility has been withdrawn. The arrangement ceases to have effect from 1 April 2007 but (valid) employer certifications in relation to changes of post that took effect before that date will be accepted up to 1 July 2007.

40. The stepping down arrangement that allowed certain scheme members to pay contributions on a notionally higher salary (based on a former higher salary) was withdrawn on 2 December 2006. Elections made in respect of changes of post that took place before that date will be honoured but, in the light of the improved pensionable salary arrangements (described above) teachers who have made such elections should consider if they still wish to pay contributions on the notional salary.

**Allocation**

41. The option for scheme members to allocate a portion of their pension to a spouse, civil partner or dependant, has been withdrawn. Existing allocation elections will be honoured.

**The Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996**

The material changes to these regulations, which are consequential upon the main scheme changes described in Annex A, are as follows:

**Partners' Pensions**

1. Provisions is made for employing authorities to pay compensation pensions to nominated surviving partners where the main scheme conditions are met.

**Duration of spouses', civil partners' and surviving nominated partners' pensions**

2. Spouses', civil partners' and surviving nominated partners' compensation pensions that are payable in respect of scheme members whose premature retirement benefits commenced on or after 1 April 2007 are payable for the lifetime of the recipient. As with main scheme pensions, widow, widower and civil partner compensation pensions that are payable in respect of a member who retired from a date prior to 1 April 2007 will remain liable to cessation on the recipient's remarriage, formation of civil partnership or cohabitation.

**Allocation**

3. The option for individuals to allocate a portion of their annual compensation to a spouse or civil partner has been withdrawn. Existing allocation elections must, however, be honoured.

**Restriction on recycling lump sums**

4. As explained in paragraph 20 in Annex A, HM Revenue and Customs rules contain tax penalties if a teacher uses a lump sum to generate further retirement benefits. Employing authorities must require individuals to sign a declaration to confirm that he or she does not intend to recycle any lump sum into another pensions-savings vehicle.

5. If the declaration is not received within a time scale specified by the employing authority, the employing authority has power to avoid the tax penalty by converting the lump sum to additional annual compensation using the same factors that are used for the main scheme.

**The Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1995**

The material changes to these regulations, which are consequential upon the main scheme changes described in Annex A, are as follows:

**Definitions**

1. The definition of NPA has been changed to give it the same meaning as that within the Teachers' Superannuation (Scotland) Amendment Regulations 2005.
2. The definition of "retire" has been removed to reflect the change in approach to retirement and the fact that as the AVC scheme is regarded, for tax purposes, as a separate entity from the main scheme and so AVC benefits can be accessed independently of main scheme benefits (from age 55).

**Pensions for Partners**

3. Contributors will be able to nominate a person as a surviving nominated partner who will receive benefits on the production of evidence of financial dependency/interdependency.

**Annual Elections**

4. Anyone working beyond NPA has to elect annually to pay further contributions to the AVC scheme.

**Five year pension guarantee**

5. The option for a lump sum payment representing the balance of a pension after a teacher's death (where the teacher has notified the pension provider that he or she wishes the pension to continue if he or she dies within 5 years) has been removed. This is in the light of HM Revenue and Customs' rule that such a payment would be an unauthorised payment under the Finance Act 2004 and incur tax penalties. The balance will now be paid as an ongoing pension for the remainder of the period.

**Restriction on recycling lump sums**

6. As explained in paragraph 20 in Annex A, contributors will be asked to sign a declaration to confirm that they do not intend to recycle any lump sum into another pension-savings vehicle. Where a teacher refuses to make the declaration, no lump sum will be paid.