

COMMENTARY ON THE TEACHERS' SUPERANNUATION (SCOTLAND) AMENDMENT REGULATIONS 2010

Regulation 3	Substitutes a revised Regulation E1 as a consequence of the equalisation of state pension age (see section 126 of and Schedule 3 to the Pensions Act 1995). State pensionable age no longer applies to guaranteed minimum pensions, because GMP age remains 60 for women and 65 for men. The provisions in regulation E2 which relate to GMP that has remained in the STSS after payment of a cash equivalent transfer value have been incorporated into regulation E1.
Regulation 4	Omits regulations E2 and E3. There is no longer a requirement to prescribe rates of revaluation of GMP on payment of transfer value to a section 32 policy which provides an annuity.
Regulation 5	Regulation E6 is amended to clarify that the minimum pension age for all teachers is 55 with effect from 6 April 2010.
Regulation 6	Regulation E6A is amended to change the eligibility conditions for phased retirement. The minimum amount by which a teacher's contributable salary must reduce to enable a phased retirement election to be made is reduced from 25% to 20%. The regulation has also been amended to clarify that should the contributable salary increase by more than 20% (ignoring standard pay increases) in the 12 months following phased retirement then the phased retirement pension will cease.
Regulation 7	Corrects a drafting error in the formula in Regulation E7A.
Regulation 8	Regulation E23 is amended to provide that where a teacher with a short life expectancy chooses to commute their ill health retirement pension, he or she will be deemed to have elected to commute the maximum at the 12:1 rate and the balance will be paid as a multiple of 5.
Regulation 9	Inserts new regulation F10B which makes provision for pension credit members to draw benefits early from age 55 on an actuarially reduced basis if the pension debit member is able to do. As actuarially reduced pensions were only introduced to the STSS with effect from 1 July 2002, this option will not be available to pension credit members whose pension credit relates to a pension sharing order made prior to 1 July 2002 where their spouse (ie the corresponding pension debit member) had retired or left pensionable employment prior to that date.
Regulation 10	Regulation F13 is amended to allow a pension credit member who has a short life expectancy to take maximum commutation (see explanation of regulation 9).
Regulation 11	Inserts new regulation G1A. This gives the Scottish Ministers power to reduce a teacher's transfer value if the teacher has exceeded HMRC's lifetime allowance and incurred a charge. In such an event, HMRC require the STSS to pay the charge therefore it is necessary to provide the Scottish Ministers with power to deduct the charge.
Regulation 12	Inserts new regulations J6B and J6C. Regulation J6B is similar to regulation G1A above but relates to benefits rather than transfers.

	Regulation J6C is new and is a general protection against the STSS making an unauthorised payment and incurring a tax surcharge. There might be cases where an unauthorised payment is unavoidable, therefore the regulation gives the Scottish Ministers power to deal with such exceptional cases.
Regulation 13	Amends regulation J9 to make provision for the changes made in the Registered Pension Schemes (Authorised Payments) Regulations 2009. These regulations permit small pensions (ie under £2,000) to be commuted to a lump sum and thereby extinguish the teacher's entitlements under the STSS.

Scottish Public Pensions Agency
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