

To:

The Secretary General, Convention of Scottish Local Authorities

The Directors of Education, Directors of Finance & Human Resource
Managers, Scottish Local Authorities

Principals of Further and Higher Education Institutions

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Your ref:

Our ref: TEA/01/02/03

4 August 2005

Dear Sir or Madam

**THE TEACHERS' SUPERANNUATION (SCOTLAND) AMENDMENT REGULATIONS 2005
PROVISION FOR CIVIL PARTNERSHIPS**

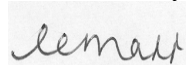
I enclose, for any comments you may have, a draft of the Teachers' Superannuation (Scotland) Amendment Regulations 2005. It is intended that these regulations will come into force on 5 December 2005, this being the date the Civil Partnership Act comes into force. Responses by Friday, 9 September 2005 would be appreciated to allow us to meet that deadline.

These regulations provide for pensions for surviving civil partners in the Teachers' Superannuation (Scotland) Regulations 1992 (SI 1992/280), The Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996 (SI 1996/2317) and the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995 (SI 1995/2814). Please note that as the 1992 Regulations will be consolidated with effect from 1 October 2005, final amendments will actually be made to the Teachers' Superannuation (Scotland) Regulations 2005 (ie the consolidated regulations). A commentary on the proposed amendments, which are purely of a technical nature, is attached at Annex A.

Comments on the draft Teachers' Superannuation (Scotland) Amendment Regulations 2005 should be made in writing by 9 September 2005 to me at the above address or by email to christine.marr@scotland.gsi.gov.uk.

In accordance with our normal practice, the Agency may make available, on request, responses to this consultation exercise, other than those in which consultees indicate that they wish their responses to be treated as confidential.

Yours faithfully



Christine Marr
Policy Manager, STSS

COMMENTARY ON THE DRAFT TEACHERS' SUPERANNUATION (SCOTLAND) AMENDMENT REGULATIONS 2005

Civil Partnerships

1. The Civil Partnership Act received Royal Assent on 18 November 2004 and the Act will be brought into force on 5 December 2005.
2. From 5 December, same-sex couples wishing to form a civil partnership will be able to give notice to the existing Registration Service. The earliest date from which a ceremony will be able to be held will be 21 December 2005.
3. The Act allows same-sex couples to make a formal, legal commitment to each other by forming a civil partnership. Important rights and responsibilities – including entitlement to survivor pensions in the Scottish Teachers' Superannuation Scheme (STSS) – will flow from entering a civil partnership, helping same-sex couples to organise their lives together. The Act also allows for same-sex couples who have entered legally recognised overseas relationships to be treated as civil partners in the United Kingdom.
4. As far as survivor pensions are concerned, the Act provides for rights to accrue from 6 April 1988. That is the date from which pensionable employment in the STSS has automatically counted for widowers' pensions. The teachers' superannuation regulations are therefore being amended so that rights accrue on the same basis as for widowers. Subject to completion of a 2-year qualifying period (ie 2 years pensionable employment on or after 6 April 1988), pensioners and deferred members will acquire civil partner survivor pension rights in respect of service undertaken on or after 6 April 1988.
5. As with opposite-sex couples who do not marry, no dependant's benefits would be paid to the surviving partner of a same-sex couple who had not registered their partnership.

Proposed changes to the Scottish Teachers' Superannuation Scheme (STSS)

Entitlement

6. From 5 December 2005, the pensionable employment of STSS members who have registered their civil partnership will automatically count for civil partnership pension purposes. The Act provides for survivor rights to accrue from 6 April 1988 and there will be a 2 year qualifying period. (See paragraph 4 above.)
7. Options are available for individuals to purchase at full cost pre-6 April 1988 reckonable service for civil partner pension purposes.

Qualification

8. There will be a 2 year qualifying period, bringing civil partner pensions into line with entitlement to a widower's pension. Pensionable employment undertaken on or after 6 April 1988 will count automatically. Service undertaken before that date will count only if it is purchased by payment of additional contributions.

Pre-6 April 1988 pensionable employment

9. STSS members in active service will be offered the opportunity to purchase, at full cost, civil partner survivor pension cover for pre-6 April 1988 pensionable employment. As with single scheme members who marry, there will be a 6 month period during which an election may be made following the registration of a civil partnership. Provision will also be made for an election to be made by a surviving civil partner of a scheme member who dies before the end of the election period without making an election.

Added Years

10. Past Added Years and Current Added Years purchased via elections made on or after 6 April 1988 will count for civil partnership survivor purposes.

Transferred-in service

11. For club and non-club transfers-in, where service is credited on a money purchase basis, service credited will count for civil partner survivor pension purposes as well as spouses' pension purposes. This will apply to all transfers-in effected in relation to pensionable employment commencing on or after 6 April 1988.

12. Comparable British Service (CBS) transfers will continue to be effected on a day-for-day basis.

Allocation

13. The allocation provision will be extended to allow scheme members to allocate in favour of a civil partner.

Death gratuity

14. In the absence of a nomination, surviving civil partners will automatically be entitled to receive the death gratuity.

Children's Pensions

15. In the same way that a child who is married is not entitled to a child's pension, a child's pension will not be paid to a child who is a civil partner.

Nomination of Beneficiaries

16. The option of nominating a financially dependent close relative will not be open to scheme members who are civil partners, and a person who is a civil partner may not be nominated. Existing nominations by single scheme members will cease to have effect if the scheme member or the person previously nominated becomes a civil partner.

Cessation of long-term family pensions

17. Recipients of a long-term spouse's and civil partner survivor's pension will lose entitlement if the recipient remarries, cohabits (lives together as man and wife), forms a civil partnership or lives together as if they were civil partners.

Pension sharing

18. The Civil Partnership Act makes provision for civil partnerships to be dissolved through a formal court-based process, therefore the pension sharing arrangements have been amended to reflect this.

Pensioners

19. Civil partner survivor pension rights will automatically be acquired by pensioners provided, prior to retirement, they completed the post-5 April 1988 2 year qualifying period. This could be achieved by completion of 2 years' pensionable employment on or after 6 April 1988 or a combination of such service (including post-5 April 1988 CBS transferred-in service).

20. The option to purchase pre-6 April 1988 service will not be available to pensioners.

Deferred Scheme Members who left pensionable employment before 5 December 2005

21. Civil partner survivor pension rights will automatically be acquired by deferred scheme members who left pensionable employment on or after 6 April 1988, provided they meet the 2 year qualifying period (see paragraph 19).

22. The option to purchase pre-6 April 1988 service will not be available to deferred scheme members unless they return to pensionable employment before retirement.

Premature Retirement Compensation (PRC)

23. Bereaved civil partners will be entitled to half-rate PRC in the same way that widowers are so entitled.

Register of overseas arrangements

24. The Act provides for registered overseas relationships between same-sex couples to be treated as civil partnerships in the UK where the relationships meet prescribed criteria contained in the Act. The Department of Trade and Industry (DTI) will be responsible for maintaining a list of overseas countries that have formal civil partner registration arrangements which will be recognised in the same way that legal foreign marriages are recognised.