

PROPOSED AMENDMENTS TO:

- **THE TEACHERS' SUPERANNUATION (SCOTLAND) REGULATIONS 2005**
- **THE TEACHERS' SUPERANNUATION (ADDITIONAL VOLUNTARY CONTRIBUTIONS) REGULATIONS 1995**
- **THE TEACHERS (COMPENSATION FOR PREMATURE RETIREMENT AND REDUNDANCY) (SCOTLAND) REGULATIONS 1996**

Proposed amendments to the Teachers' Superannuation (Scotland) Regulations 2005**1. Removal of the Earnings Cap (Regulations 4(3) to (5), 5, 8(2), 9, 19 and 27(3))**

We propose to remove the earnings cap (which limits the pensionability of salaries received by those who joined the STSS after 1 June 1989 (the current cap is £112,800)) with effect from 1 April 2008. To avoid a windfall pension gain to those whose salaries are currently subject to the cap, it is proposed that their service between 1 June 1989 and 31 March 2008 would be apportioned on the following basis:

$$A \times \frac{(B \times C)}{D}$$

Where –

A is the aggregate of periods of uncapped reckonable service

B is the aggregate of periods of capped reckonable service

C is the permitted maximum (£112,800)

D is the actual pay.

It should be noted that individuals who have elections in place to purchase past added years (under previous regulations) should have the period of service purchased during the period of capped salary included within B. Any period of service purchased as part of an ongoing election after the earnings cap is removed will fall within A and be bought on the same percentage basis of the higher uncapped salary.

It is recognised that some individuals already have in place agreed remuneration packages with their employers calculated to mitigate the effect of the earnings cap and that it would be appropriate and manageable to provide these individuals with the option of having the earnings cap removed, or of retaining the cap for as long as they remain in post with the current employer; subject to the agreement of that employer.

Although the scheduled coming into force date of the Regulations is 1 July 2008, it is proposed that the provisions removing the salary cap are to take effect from 1 April 2008 in order to keep in step with the Teachers' Pension Scheme (England and Wales). In order to achieve this it has been provided that teachers may make an election which will take effect from 1 April 2008 if it is made before 31 July 2008. It is proposed that a six month transition period from the proposed coming into force date of the Regulations (1 July 2008) be introduced to allow individuals to take independent financial advice and discuss their options

with their employer up until 31 December 2008. SPPA will contact those involved in due course setting out their options.

If agreement is reached between the two parties that the earnings cap will not apply, written notice must be sent to the Scottish Ministers at which point the service apportionment calculation will take place. If written notice is not received by 31 December 2008, the earnings cap will continue to apply until the individual is subject to a change in post or change in employer at which point the earnings cap will no longer apply and the service apportionment calculation will be carried out.

2. Election in respect of additional benefits (Regulation 7)

We propose to provide an additional flexibility that will enable normal pension age (NPA) 60 members (or their employers) who have reached that age and are still in pensionable employment to purchase additional benefits (by lump sum or instalments) using the costs appropriate for a normal pension age (NPA) 65 member. This would not mean that those benefits could not be taken before age 65, but if they are drawn before that age they would be subject to actuarial reduction. Currently, it is not possible for a member of the NPA 60 arrangements to buy additional pension benefits once they have reached that age. The amount purchased will be restricted to the overall £5,000 annual pension limit, less any additional pension benefits already purchased.

3. Entitlement to retain Normal Pension Age on transfer (Regulation 10)

We propose to introduce a specific provision to reflect the public service pension policy that any individual who has been subject to the transfer of their employment under a Transfer of Undertakings (Protection of Employment) arrangement will retain the normal pension age of their previous scheme on entry to the STSS. This means, for example, that an individual who joins the STSS after 1 April 2007 as a result of a TUPE transfer from an employment where they had a normal pension age of 60 would otherwise have a normal pension age of 65. This provision is restricted to compulsory transfers under TUPE arrangements. It does not extend to those who voluntarily transfer to the STSS.

4. Amount of retirement lump sum (Regulation 13)

We propose to amend the regulations to provide that where a scheme sanction charge could be levied by HMRC against the STSS for an unauthorised lump sum payment, the same inverse commutation rules would apply as those already in place for those over age 75. In other words the “unauthorised” lump sum would be converted into an annual pension payment.

5. Family Benefits (Regulation 17)

The definition of ‘child’ within the STSS Regulations was amended as a result of A-Day legislation (SSI 2006/308) and had the effect of excluding children who had not been adopted but who were accepted as part of the family and wholly or mainly financially dependent on the scheme member from the definition of “child”. The amendment regulations will rectify the situation to include these children in that definition. The change to the definition will be deemed to take effect from 6 April 2006 apart from where payments to a child have already been made before the coming into force date of the Regulations.

Proposed amendment to the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995**6. Outward Transfers (Regulation 32)**

We propose to make an amendment to the options available for members of the Teachers' Additional Voluntary Contributions (TAVC) Scheme who transfer their main scheme benefits out of the STSS. The TAVC arrangements are available only to members of the STSS. Where a member with a TAVC transfers their main scheme benefits out of the STSS, and as a result has extinguished their membership rights under the STSS, the TAVC fund needs to be transferred at the same time to another investment vehicle. This is what tends to happen in practice, but the AVC regulations do not explicitly set out the options available to the individual. The amendment regulations will correct this omission.

Proposed amendment to the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996**7. Discretion to pay compensation (Regulation 36)**

It is proposed to increase the amount of discretionary severance compensation from 66 weeks to 104 weeks from the date the amendment regulations come into force.

**Scottish Public Pensions Agency
5 March 2008**