

GUERNSEY STATUTORY INSTRUMENT

1996--No. 3

The Teachers' Superannuation (Amendment) (Guernsey)
Regulations, 1996

Made 22nd January, 1996
Laid before the States , 1996
Deemed to have come into operation on 1st January, 1995

THE STATES EDUCATION COUNCIL, in exercise of the powers conferred upon it by sections 1 and 3 of the Superannuation (Teachers and Teachers' Families) (Guernsey) Law, 1974(a), hereby makes the following Regulations:-

Citation, commencement and extent.

1. (1) These Regulations may be cited as the Teachers' Superannuation (Amendment) (Guernsey) Regulations, 1996, and shall be deemed to have come into operation on the 1st January 1995.

(2) These Regulations shall have effect in the Islands of Guernsey, Herm and Alderney.

Interpretation.

2. In these Regulations, "the principal Regulations" means the Teachers' Superannuation (Guernsey) Regulations, 1994(b), and any other expressions have the same meanings as in the principal Regulations.

(a) Ordres en Conseil Vol. XXIV, p. 265.
(b) S.I. 1994 No. 1.

Application.

3. Subject to the provisions of regulation 23, the Teachers' Superannuation (Guernsey) Regulations, 1994, shall be amended as follows.

Full-time employment.

4. In regulation 3(1)(b) for the words "the person responsible for its manage-management" there shall be substituted the words "the person responsible for its management".

Exclusion from pensionable employment.

5. In regulation 6(1)(b) there shall be omitted the words "or maternity leave" and there shall be inserted at the end the words ", or on maternity leave and entitled to be paid any contractual remuneration".

Additional contributions for past period.

6. In regulation 9-

(a) in paragraph (1)(a) the words "except where paragraph (5) applies" shall be omitted;

(b) the word "or" shall be inserted after paragraph (2)(b);

(c) paragraph (2)(d) and the word "or" preceding it shall be omitted;

(d) paragraphs (3) and (5) shall be omitted;

(e) after paragraph (6)(e) there shall be inserted the following paragraph-

"(f) unless payment is to be made by Method B and notice of the election is given no

earlier than the date of
applying for payment of
retirement benefits."

(f) paragraph (6)(g) shall be omitted; and

(g) paragraph (11)(d)(ii) and the word
"and" preceding it shall be omitted.

Additional contributions for past period by family pensioner.

7. (1) Regulation 10(1)(a)(ii) shall be omitted.

(2) Regulation 10(4)(a) shall be omitted.

Repayment of certain contributions paid for family benefits.

8. Regulation 18(1)(b) shall be omitted.

Return of repaid contributions.

9. In regulation 20 after paragraph (8) there shall be inserted the following paragraph-

"(9) For the purposes of this regulation a person is to be treated as being in pensionable employment if he is paying additional contributions under regulation 14 or 14A and such person may, except where paragraph (2)(b) applies, elect to make the return by instalments under paragraph (7).".

Reckonable service generally.

10. In regulation 23 after paragraph (3) there shall be inserted the following paragraph-

"(4) In calculating the length of reckonable service-

(a) no account shall be taken of a leap year day (29th February) except as provided in subparagraph (b); but

(b) where total reckonable service which includes part of a year ends in a leap year on or after the leap year day that day shall be included in the number of days of reckonable service."

Death grants.

11. In regulation 45(7) there shall be inserted after the words "it is to be paid" the words "to the person nominated by the deceased to receive the grant or, in the absence of such a nomination,".

Supplementary death grants.

12. In regulation 46(5) there shall be inserted after the words "it is to be paid" the words "to the person nominated by the deceased to receive the grant or, in the absence of such a nomination,".

Family benefits generally.

13. In regulation 47(5)(b) there shall be inserted after the word "calling" the words "and he has been receiving such education or attending such course of training or both continuously since having attained that age without a break at any one time of longer than a year".

Nomination of beneficiaries.

14. In regulation 48(1) for the words "while in pensionable employment" there shall be substituted the words "before retirement benefits have been paid".

Average salary

15. In regulation 55-

- (a) in paragraph (1) for the words "A person's average salary" there shall be substituted the words "Subject to paragraph (7), a person's average salary".
- (b) after paragraph (6) there shall be inserted the following paragraphs-

" (7) Subject to paragraphs (9) and (10), in the case of a person to whom on the material date remuneration provisions did apply, an increase in his contributable salary the main object, or one of the main objects, of which was to increase his average salary (and accordingly his retirement benefits) is to be treated as having increased his average salary by no more than the amount by which it would have been increased if he had instead received, on the material date, the standard increase of salary.

(8) Subject to paragraphs (9) and (11), in the case of a person to whom on the material date remuneration provisions did not apply, an increase in his contributable salary the main object, or one of the main objects, of which was to increase his average salary (and accordingly his retirement benefits) is to be treated as having increased his average salary by no more than the amount by which it would have been increased if he had instead received, on the material date, the standard increase of salary.

(9) For the purposes of paragraphs (7), (8), (10) and (11) the material date is the date on which the increase of salary took effect and remuneration provisions are those as agreed from time to time between the States of Guernsey Civil Service Board and the Negotiating Committee for Teachers and Lecturers in Guernsey (NCTLG).

(10) For the purposes of paragraph (7), the standard increase of salary is the increase, if any, that would have been received on the material date by the person in question in accordance with the remuneration provisions had he not received the increase in salary referred to in that paragraph or, if he would have received no increase on that date in accordance with those provisions, the next increase that would have been received by him in accordance with those provisions.

(11) For the purposes of paragraph (8), the standard increase of salary is the average percentage of the increases, if any, that would have been received on the material date by persons ("the comparable employees") who were employed at the school or institution where the person in question was employed and whose circumstances corresponded most closely to those of that person or, if there were no comparable employees, by persons who were employed as teachers at that school or institution or, if

the comparable employees or the persons so employed as teachers (as the case may be) would have received no increases on that date, the next increases they would have received.

(12) The provisions made by paragraphs (7) and (8) shall not apply for the purpose of calculating any benefit which has become payable before 1st January, 1995."

Modified application in case of employment at reduced salary.

16. After regulation 68 there shall be inserted the following regulation-

"Modified application in case of employment at reduced salary.

68A.(1) If-

(a) a person who has been in pensionable employment either-

(i) continues to be employed, or

(ii) ceases to be employed and is re-employed within 6 months, by the same employer at a reduced rate of contributable salary in a different post, and

(b) he does not elect under regulation 7(4) that his contributable salary is to be treated as having continued at the previous rate, and

(c) his employer notifies the Council in writing, within 13 weeks after the first day of his employment at the reduced rate, that his employment at that rate is in the interests of the efficient discharge of the employer's functions, and

(d) the application to him of this paragraph would, taking into account prospective increases under regulation 44 of benefits under Part V, be beneficial,

these Regulations have effect in relation to him with the modifications set out in Part III of Schedule 7.

(2) For the purposes of paragraph (1)-

(a) the contributable salary of a person in part-time employment is to be taken to be what it would be if the employment had been full-time, and

(b) where the employers at the previous rate and at the reduced rate were different, the former is the employer for the purposes of notification under paragraph 1(c).

(3) A second or subsequent application of paragraph (1) does not affect its previous operation."

Additional contributions for past period - Method D.

17. Part IV of Schedule 3 shall be omitted.

Additional contributions for past period under earlier provisions.

18. In Part I of Schedule 4-

(a) in paragraph 1(1) for the words "and 3" there shall be substituted the words ", 3 and 3A";

(b) for paragraph (5)(b) there shall be substituted the following-

"(b) has effect from the beginning of the month following the month in which the Council gives written notice of the acceptance of the election."; and

(c) after paragraph 3 there shall be inserted the following paragraph-

" 3A. (1) A person may elect by giving written notice to the Council, to cease to pay contributions payable by Method 1 but, in the case of such election being made, any additional contributions paid up to that time are not to be refunded.

(2) An election under this paragraph has effect only if the Council notifies the person in writing that it has been accepted."

Uncompleted payment of additional contributions

19. In Schedule 6 after paragraph 6 there shall be inserted the following paragraph-

" 7. (1) This paragraph applies where a person paying additional contributions for a past period in accordance with Method 1, as described in paragraph 1 of Schedule 4, elects to cease to pay such contributions in accordance with paragraph 3A of that Schedule.

(2) Where this paragraph applies, the person is entitled to count as reckonable service-

$$\frac{A \times C}{B}$$

where-

A is the past period,

B is the contribution period, and

C is so much of B as had elapsed by the date on which the election has effect in accordance with paragraph 3A(2) of Schedule 4."

Allocation of part of retirement pension.

20. In paragraph 1 of Part 1 (contents of declaration) of Schedule 8 after sub-paragraph (2) there shall be inserted the following sub-paragraph-

" (3) The part allocated must not be such as to cause the retirement pension payable to be less than the guaranteed minimum."

Elections in respect of a death grant or supplementary death grant.

21.(1) This regulation applies to a person-

(a) to whom a death grant or supplementary death grant may become payable under

regulation 45 or 46 of the principal Regulations in respect of a person who was employed in pensionable employment but ceased to be so employed before 1st January 1995; and

- (b) who is placed in a worse position than he would have been in if the amendment made to regulation 45 or 46 of the principal Regulations by regulation 11 or 12 of these Regulations had not applied in relation to the death grant or supplementary death grant.

(2) A person to whom this regulation applies may, by giving written notice to the Council before the relevant date, elect that the provisions of regulation 11 or 12 of these Regulations (as the case may be) shall not apply in relation to the death grant or supplementary death grant.

(3) For the purposes of paragraph (2) the relevant date is-

- (a) 1st January 1995; or
- (b) the date one month after the date of death of the person in respect of whom the death grant may become payable,

whichever is the later.

Elections in respect of protected benefits.

22.(1) This regulation applies to a person-

- (a) to whom a protected benefit may become payable, and
- (b) who is placed in a worse position than he would have been in if the provision

made by regulation 55(7) or (8) of the principal Regulations had not applied in relation to the protected benefit.

(2) A protected benefit is one which may become payable under the principal Regulations, to or in respect of a person who was employed in pensionable employment but ceased to be so employed before 1st January, 1995.

(3) A person to whom this regulation applies may, by giving written notice to the Council before three months after the date these Regulations were made, elect that the provision of regulation 55(7) or (8) of the principal Regulations shall not apply in relation to the protected benefit.

Transitional provisions.

23.(1) The amendment to regulation 47(5)(b) of the principal Regulations made by regulation 12 shall not apply in relation to a provision to or for the benefit of a child of a person who-

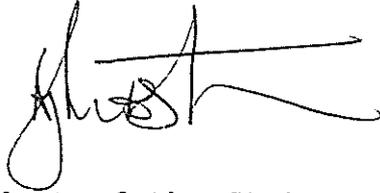
(a) died; or

(b) was employed in pensionable employment but ceased to be so employed,

before 1st January 1995.

(2) Regulation 68A of the principal Regulations inserted by regulation 14 shall not apply in relation to a person whose employment at a reduced rate started before 1st November 1988.

Dated this twenty second day of January, nineteen hundred and ninety-six.



President of the States Education Council,
for and on behalf of the Council.

EXPLANATORY NOTE

(This Note is not part of the regulations)

These regulations are made under the Superannuation (Teachers and Teachers' Families) (Guernsey) Law, 1974, and amend the Teachers' Superannuation (Guernsey) Regulations, 1994 (the "1994 Guernsey Regulations") with revised provisions as to teachers' pensions, allowances and gratuities.

The regulations include the following changes:

Regulation 4

This corrects a typographical error in regulation 3(1)(b) of the 1994 Guernsey Regulations.

Regulation 5

This amendment removes the restriction that only maternity leave pay equalling at least 50% of an employee's salary is pensionable. Contractual maternity leave pay, whatever the percentage, is now pensionable.

Regulations 6, 7 and 17

Following changes in the English scheme in 1993, (which were incorporated into the 1994 Guernsey Regulations just before their final approval), Method D for purchasing added years has become obsolete. These regulations delete all remaining references to Method D.

Regulation 8

This deletes the option to take repayment of certain family benefit contributions when a teacher transfers his pension credit to another scheme.

Regulation 9

This allows a teacher to reinstate previously withdrawn contributions whilst paying combined contributions when on a temporary break from teaching, but continuing in pensionable service.

Regulation 10

This amends reckonable service, where the final period of service is affected by a leap year day (February 29th).

Regulations 11 and 12

Regulation 11 clarifies the conditions under which a death grant is paid and allows teachers to nominate a person to receive a death grant. Regulation 12 allows a nomination to be made by a teacher in respect of a supplementary death grant.

Regulation 13

This clarifies the definition of a child in connection with a child's pension, particularly where there is a break in their studies. This allows a break of up to a year.

Regulation 14

This concerns nomination of beneficiaries by unmarried teachers, and allows them to nominate a financially dependant close relative for receipt of family benefits even if they have resigned, but not yet received pension benefits.

Regulation 15

These amendments affect regulation 55 concerning an abnormal increase in salary just before retirement, given with a view to enhance the teacher's pension

benefits, for the payment of which the employer would not be responsible. The provisions were not originally included in the 1994 Guernsey Regulations but are now considered necessary, including recent amendments made in England extending the provisions to institutions other than schools which are responsible for the payment of teachers' salaries.

Regulation 16

This regulation concerning employment on a reduced salary in a different post was omitted in error from the 1994 Guernsey Regulations, although the schedule detailing the regulations provisions was included.

Regulations 18 and 19

These make minor changes to the provisions governing the purchase of added years under earlier provisions.

Regulation 20

This is an amendment to ensure that a Guaranteed Minimum Pension (GMP) is safeguarded when a teacher allocates part of his pension.

Regulations 21 and 22

These make provision for opting out of the amendments made by regulation 11, 12 or 15 where rights in relation to persons who have left pensionable employment are adversely affected.

Regulation 23

This is a transitional provision in connection with the amendments made by regulations 12 and 14 above.