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GUERNSEY STATUTORY INSTRUMENT

1980 - No. 5

The Teachers' Superannuation (Amendment) (Guernsey) Regulations, 1980

Made 26th February, 1980

Laid before the States

Deemed to have come into operation... .. 6th April, 1978

THE STATES EDUCATION COUNCIL, in exercise of the powers conferred upon it by section one and section three of the Superannuation (Teachers and Teachers' Families) (Guernsey) Law, 1974, hereby orders:-

Amendment of regulation 3 of the principal regulations

1. (1) Regulation 3 of the Teachers' Superannuation (Guernsey) Regulations, 1978, as amended (hereafter in these regulations referred to as "the principal regulations") is hereby amended as follows, that is to say:-

(a) immediately before the words "Unless the context otherwise requires", there is hereby inserted the figure 1 in brackets;

(b) immediately after the definition of the expression "the Income Tax Law", there is hereby inserted the following definition -

"insured pensionable age" means, in the case of a man, the age of 65 and, in the case of a woman, the age of 60;" and

(c) immediately after the definition of the expression "the Law of 1948", there are hereby inserted the following definitions -

"notional guaranteed minimum allowance", in relation to a teacher whose reckonable service includes a period of such service as is mentioned in regulation 50(1)(a)(iii), means the guaranteed minimum pension within the meaning of section 26(2) of the Social Security Pensions Act 1975 to which he would have been entitled at, and from time to time after, insured pensionable age by virtue of that Act by reference to his employment in reckonable service if that employment were deemed to be contracted-out employment for the purposes of that Act;

"notional guaranteed minimum pension", in relation to the widow of a teacher whose reckonable service includes a period of such service as is mentioned in regulation 50(1)(a)(iii) means the guaranteed minimum pension within the meaning of section 26(2) of the Social Security Pensions Act 1975 to which she would have been entitled from time to time by virtue of that Act by reference to his employment in reckonable service if that employment were deemed to be contracted-out employment for the purposes of that Act;".

(2) Immediately after regulation 3(7) of the principal regulations, there is hereby inserted the following paragraph -

"(8) For the purpose of determining whether or not an annual allowance or widow's pension shall be calculated by reference to the notional guaranteed minimum allowance or to the notional guaranteed minimum pension, as the case may be, a weekly amount shall be taken to be the annual amount divided by 52, the result being rounded off to the nearest whole penny, taking $\frac{1}{2}$ p. as nearest to the whole penny above."

Amendment of regulation 49 of the principal regulations

2.(1) For the heading to regulation 49 of the principal regulations there is hereby substituted the following heading, that is to say, "Limited repayments to pensioners".

(2) Immediately before the words "A teacher" at the beginning of the said regulation there is hereby inserted the figure 1 in brackets, and immediately after the words "the Income Tax Law" at the end of that regulation there is hereby inserted the following paragraph -

"(2) Where -

- (a) a teacher entitled to, or qualified for, allowances by virtue only of regulation 50(1)(a)(iii) would otherwise be entitled to a repayment under regulation 44 or regulation 45; and
- (b) his reckonable service includes periods of service (other than such subsequent service as is mentioned in paragraph (1)(c)) disregarded for the purposes of calculating the said allowances;

he shall be entitled to a repayment under the regulation in question but in calculating the amount thereof account shall only be taken of contributions paid in respect of such periods of service aforesaid; and regulation 48(1)(a) and (b) shall be construed accordingly."

Amendment of regulation 50 of the principal regulations

3.(1) In regulation 50(1)(a) of the principal regulations, immediately after sub-paragraph (ii) thereof, there is hereby inserted the following sub-paragraph -

"(iii) subject to paragraph (5), not being such a person as aforesaid, has been employed on or after 6th April 1978 in reckonable service which includes a period of service credited to the teacher by virtue of interchange provisions in respect of which he had an earner's guaranteed minimum within the meaning of section 35 of the Social Security Pensions Act 1975 and in respect of which a contributions equivalent premium has not been paid by the Secretary of State in pursuance of section 42 of that Act."

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(2) Immediately after regulation 50(4) of the principal regulations there is hereby inserted the following paragraph -

"(5) A teacher's entitlement to benefit by virtue of paragraph (1)(a)(iii) shall be extinguished -

- (a) upon the purchase by the Council of an annuity or insurance policy approved by or on behalf of the Secretary of State and securing the payment to the teacher at and after insured pensionable age of a pension at a weekly rate equal to the weekly rate of his notional guaranteed minimum allowance; or
- (b) in such other manner as may be approved by or on behalf of the Secretary of State;

and where a teacher's entitlement to benefit is so extinguished, he shall be treated for the purposes of these regulations as never having been so entitled."

Amendment of regulation 50A of the principal regulations

4. In regulation 50A(2)(b) of the principal regulations, for the words "subparagraph (c)" there shall be substituted the words "subparagraphs (a)(iii) and (c)".

Amendment of regulation 51 of the principal regulations

5.(1) In regulation 51 of the principal regulations, immediately after paragraph (2) thereof, there is hereby inserted the following paragraph -

"(2A) In calculating an annual allowance payable to a teacher by virtue only of regulation 50(1)(a)(iii) no account shall be taken of any reckonable service before 6th April 1978 which is not continuous with reckonable service on or after that date."

(2) In regulation 51 of the principal regulations, immediately after paragraph (6) thereof, there is hereby inserted the following paragraph

"(7) Where, in the case of a teacher employed in reckonable service after 5th April 1978 and whose reckonable service includes a period of such service as is mentioned in regulation 50(1)(a)(iii), the weekly rate of his annual allowance, calculated as aforesaid, would be less than the weekly rate of his notional guaranteed minimum allowance, then the preceding provisions of this regulation shall not apply but the annual allowance payable to him shall be payable at the last-mentioned weekly rate."

Amendment of regulation 52 of the principal regulations

6. For the full-stop at the end of regulation 52(1) of the principal regulations there is hereby substituted a semi-colon and immediately thereafter there is hereby inserted the following proviso -

"Provided that, where the allowance does not begin to accrue as aforesaid before the teacher attains the age of 70, in the case of a man, or of 65, in the case of a woman, and the teacher's reckonable service includes a period of such service as is mentioned in regulation 50(1)(a)(iii), so much of the allowance as is equal to his notional guaranteed minimum allowance shall begin to accrue on the day that the teacher attains that age."

Amendment of regulation 53 of the principal regulations

7. Immediately after regulation 53(3) of the principal regulations there is hereby inserted the following paragraph -

"(3A) In calculating an additional allowance payable to a teacher by virtue only of regulation 50(1)(a)(iii) no account shall be taken of any reckonable service before 6th April 1978 which is not continuous with reckonable service on or after that date".

Amendment of regulation 54 of the principal regulations

8.(1) In regulation 54(1) of the principal regulations, for paragraph (a) thereof there is hereby substituted the following paragraph -

"(a) is not entitled to any allowances by virtue of regulation 50 other than allowances the aggregate value of which is less than the amount first mentioned in paragraph (2); and".

(2) For paragraph (2) of regulation 54 of the principal regulations there is hereby substituted the following paragraph -

"(2) A short service gratuity shall be of an amount calculated by multiplying one-twelfth of the teacher's salary by the number of years of his reckonable service except that there shall be deducted therefrom the amount which is the aggregate value of any allowances to which he is entitled by virtue of regulation 50.

(2A) For the purposes of this regulation the aggregate value of an annual allowance and an additional allowance shall be the aggregate of the actuarial value of the annual allowance and the amount of the additional allowance."

Amendment of regulation 59 of the principal regulations

9. In regulation 59 of the principal regulations, for paragraph (c) thereof there is hereby substituted the following paragraph -

"(c) in the case of a teacher who has not been employed in reckonable service after 5th April 1978, the references to his widow do not include references to a woman whom he married after the day on which he was last employed in reckonable service."

Amendment of regulation 61 of the principal regulations

10.(1) In regulation 61(1), for the words "any teacher who was employed in reckonable service on or after 1st April 1972 and whose service to which this regulation applies amounts to at least five years" there are hereby substituted the words "any such teacher as is mentioned in paragraph (2)".

(2) For paragraph (2) of regulation sixty-one there are hereby substituted the following paragraphs -

"(2) The teacher referred to in paragraph (1) is a teacher who was employed in reckonable service on or after the 1st April 1972 where -

- (a) his reckonable service on or after that date, when aggregated with any such service before that date in respect of which he elected to pay contributions under any previous provision relating to family benefits, amounted to at least five years; or
 - (b) subject to paragraph (3), his reckonable service on or after 6th April 1978 includes a period of such service as is mentioned in regulation 50(1)(a)(iii).
- (3) A widow's entitlement to benefit under this regulation by virtue of paragraph (2)(b) shall be extinguished -

- (a) upon the purchase by the Council of an annuity or insurance policy approved by or on behalf of the Secretary of State and securing the payment to her from time to time, for so long as a widow's pension would be required to be paid to her in pursuance of section 36(6) of the Social Security Pensions Act 1975 if that provision were applicable in her case, a pension at a weekly rate equal to the weekly rate of her notional guaranteed minimum pension; or
- (b) in such other manner as may be approved by or on behalf of the Secretary of State;

and where a widow's entitlement to benefit is so extinguished, she shall be treated for the purposes of those regulations as never having been so entitled."

Amendment of regulation 63 of the principal regulations

11.(1) In regulation 63(2) of the principal regulations, for the words "The reckonable service of a teacher" there are hereby substituted the words "Subject to paragraph (4A), the reckonable service of a teacher".

(2) Immediately after regulation 63(4) of the principal regulations there is hereby inserted the following paragraph -

"(4A) In the case of the widow of a teacher employed in reckonable service after 5th April 1978, where they married after the day on which he was last employed in reckonable service, the reckonable service of the teacher counting for benefit for the purposes of this regulation is his reckonable service after 5th April 1978."

(3) Immediately after regulation 63(5) of the principal regulations there is hereby inserted the following paragraph -

"(6) Where, in the case of a teacher employed in reckonable service after 5th April 1978 and whose reckonable service included a period of such service as is mentioned in regulation 50(1)(a)(iii), the weekly rate of his widow's pension, calculated as aforesaid, would be less than the weekly rate of her notional guaranteed minimum pension then the preceding provisions of this regulation shall not apply but the pension payable to his widow shall be payable at the last-mentioned weekly rate."

Amendment of regulation 64 of the principal regulations

12.(1) In regulation 64(1) of the principal regulations, for the words "If the teacher is survived by a widow" there are hereby substituted the words "Subject to paragraph (6), if the teacher is survived by a widow".

(2) Immediately after regulation 64(5) of the principal regulations there is hereby inserted the following paragraph -

"(6) Where the teacher is survived by a widow whom he married after the day on which he was last employed in reckonable service but his surviving children include a child of an earlier marriage contracted on or before that day ("the previous marriage") then, so long as there is a child of the previous marriage, paragraph (8) shall apply to the exclusion of paragraph (1) for the purposes of calculating the pension in respect of his children.

(7) For the purposes of paragraph (6) and paragraph (8), a child who was the teacher's child at the inception of the previous marriage, or became such, by adoption or otherwise, during the subsistence of that marriage, shall be treated as if he were a child of that marriage.

(8) Where and so long as the child's pension falls to be calculated in accordance with this paragraph it shall be calculated -

(a) for so long as there are two or more children of the previous marriage, by multiplying $1/160$ th of the teacher's average salary by the number of years of his service which would count for benefit for the purposes of regulation 63 if paragraph (4A) were omitted therefrom;

(b) for so long as there is only one child of the previous marriage, by multiplying $1/320$ th of the teacher's average salary by the said number and, where there are one or more other children, adding to that product $1/320$ th of the teacher's average salary multiplied by the number of years of his service which actually counts for benefit for the purposes of regulation 63."

Amendment of regulation 67 of the principal regulations

13. For regulation 67(4) of the principal regulations there is hereby substituted the following paragraph -

"(4) Where a person to whom such a pension as is mentioned in paragraph (1) is payable marries then, unless the Council otherwise directs, and subject to paragraph (4B) -

(a) in the case of a pension payable to a widow who has attained pensionable age, being the widow of a teacher who was employed in reckonable service after 5th April 1978 and whose reckonable service included a period of such service as is mentioned in regulation 50(1)(a)(iii), so much of the pension as exceeds her notional guaranteed minimum pension shall cease to be payable;

(b) in the case of any other pension, the whole pension shall cease to be payable.

(4A) Where a person to whom such a pension as is mentioned in paragraph (1) is payable commences to cohabit with a person to whom he or she is not married then, unless the Council otherwise directs, and subject to paragraph (4B) -

(a) in the case of a pension payable to the widow of a teacher who was employed in reckonable service after 5th April 1978 and whose reckonable service included a period of such service as is mentioned in regulation 50(1)(a)(iii), so much of the pension as exceeds her notional guaranteed minimum pension shall cease to be payable and, in respect of any period before she has attained insured pensionable age for which she is so cohabiting, the balance of the pension shall also not be payable;

(b) in the case of any other pension, the whole pension shall cease to be payable.

(4B) Any pension which has ceased to be payable under paragraph (4) or (4A), in whole or in part, shall, if the Council so directs, again become payable, or wholly payable, upon the pensioner's marriage terminating (by death or divorce) or, as the case may be, upon his ceasing to cohabit."

Amendment of regulation 73 of the principal regulations

14. In regulation 73 of the principal regulations, for the words "An annual allowance shall be reduced" there are hereby substituted the words "Subject to regulation 76A, an annual allowance shall be reduced".

Amendment of regulation 74 of the principal regulations

15. In regulation 74(2) of the principal regulations immediately after the words "any years of service", there are hereby inserted the words "added to reckonable service".

Amendment of regulation 76 of the principal regulations

16. In regulation 76(2) of the principal regulations, for the words "The Council may defer" there are hereby substituted the words "Subject to regulation 76A, the Council may defer" and for the words "in respect of" there is hereby substituted the word "to".

Insertion of an additional regulation in the principal regulations

17. After regulation 76 of the principal regulations there is hereby inserted the following regulation -

"76(A).(1) This regulation shall apply to an annual allowance payable to a teacher employed in reckonable service after the 5th April 1978 whose reckonable service includes a period of such service as is mentioned in regulation 50(1)(a)(iii).

(2) Notwithstanding anything contained in regulations 73 and 76 of these regulations, for any period beginning on or after the teacher attains insured pensionable age the allowance shall be payable at a rate not less than that of his notional guaranteed minimum allowance."

Amendment of regulation 78 of the principal regulations

18. For the full-stop at the end of regulation 78(1) there is hereby substituted a semi-colon and immediately thereafter there is hereby inserted the following proviso -

"Provided that the application is made with the former teacher's consent, and, in the case of a teacher employed in reckonable service after 5th April 1978 and whose reckonable service includes a period of such service as is mentioned in regulation 50(1)(a)(iii), the approved superannuation scheme is a contracted-out scheme within the meaning of the Social Security Pensions Act 1975."

Amendment of Schedule 1 to the principal regulations

19. In the heading to Schedule 1 to the principal regulations, the words "SERVICE RECKONABLE AS SUCH" are hereby repealed.

Extent

20. These regulations shall have effect in the Islands of Guernsey, Herm and Alderney.

Citation and Collective Title

21.(1) These regulations may be cited as the Teachers' Superannuation (Amendment) (Guernsey) Regulations, 1980.

(2) These regulations, the Teachers' Superannuation (Guernsey) Regulations, 1978, and the Teachers' Superannuation (Amendment) (Guernsey) Regulations, 1979, may be cited together as the Teachers' Superannuation (Guernsey) Regulations, 1978 to 1980.

Commencement

22. These regulations shall be deemed to have come into operation on the sixth day of April, nineteen hundred and seventyeight.

Dated this *Twenty Sixth* day of *February*, nineteen hundred and eighty.

[signed] *L.L. Guille*

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

EXPLANATORY NOTE

(This Note is not part of the Regulations)

(1) The main purpose of these regulations is to further amend the Teachers' Superannuation (Guernsey) Regulations, 1978, as amended, so as to provide, where a teacher's reckonable service includes a period of service credited to the teacher by virtue of interchange provisions, in respect of which he had an earner's guaranteed minimum within the meaning of section 35 of the Social Security Pensions Act 1975, and in respect of which a contributions equivalent premium has not been paid by the Secretary of State in pursuance of section 42 of that Act, that -

- (a) the teacher shall be entitled to an annual allowance (in the case of a man, on attaining 65 years of age and, in the case of a woman, on attaining 60 years of age) at a weekly rate not less than the weekly rate of the guaranteed minimum pension the teacher would have been entitled to by virtue of the Act of 1975 by reference to his employment in reckonable service if that employment were deemed to be contracted-out employment for the purposes of that Act; and
- (b) the widow of such a teacher shall be entitled to a pension at a weekly rate not less than the weekly rate of the guaranteed minimum pension she would have been entitled to by virtue of the Act of 1975 by reference to his employment in reckonable service if that employment were deemed to be such contracted-out employment.

(2) These regulations also further amend the Regulations of 1978 so as to confer entitlement to an annual allowance and additional allowance on a teacher with such service as is mentioned above and whose period of reckonable service does not exceed five years; and so as to make provision for pensions for widows and children by post-retirement marriages.