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GUERNSEY STATUTORY INSTRUMENT

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1998--No. 9

**The Teachers' Superannuation (Amendment) (Guernsey)  
Regulations, 1998**

Made ... .. 26th March, 1998

Laid before the States ... .. , 1998

Deemed to have come into operation on 1st October, 1996

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, 1997, and shall be deemed to have come into operation on the 1st October 1996.

(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 as amended (b), and any other expressions have the same meanings as in the principal Regulations.

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(a) Ordres en Conseil Vol. XXIV, p. 265.

(b) S.I. 1994 No. 1 and S.I. 1996 No.3.

**Application.**

3. Subject to the provisions of regulation 22 of these regulations, the Teachers' Superannuation (Guernsey) Regulations, 1994, shall be amended as follows.

**Salary on which contributions are payable.**

4. In regulation 7-

(a) in paragraph (5) (a) for the number "6" there shall be substituted the number "3"

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

"(b) has effect from the day after the last day on which the person's salary was payable at the rate applicable immediately before the reduction,".

**Additional contributions for past period.**

5. In regulation 9-

(a) the word "or" shall be inserted at the end of paragraph (2) (a);

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

(c) after paragraph (2) there shall be inserted the following paragraph-

"(2A) Subject to paragraphs (6), (7), (9), and (11A) the employer of a person to whom this regulation applies may elect to pay additional contributions in respect of the person in accordance with Part II of Schedule 3 ("Method B").";

- (d) paragraph (4) shall be omitted;
- (e) in paragraph (6) the word "and" shall be inserted at the end of sub-paragraph (d) and sub-paragraph (e) shall be omitted;
- (f) in paragraph (6) sub-paragraph (f) the words "must be a period of not less than 30 days" shall be inserted after the words "retirement benefits"
- (g) in paragraph (8) sub-paragraph (b) and the word "and" preceding it shall be omitted;
- (h) in paragraph (10) the words "or C" shall be omitted;
- (i) in paragraph (11) -
  - (a) for the words "under this regulation" there shall be substituted the words "under paragraph (2)"; and
  - (b) in sub-paragraph (C) the words "or C" shall be omitted;
- (j) after paragraph 11 there shall be inserted the following paragraph-
  - "(11A) An election under paragraph (2A) must be made by giving written notice to the Council which-
    - (i) is to specify the person in respect of whom it is made, and

(ii) is to specify the past period.";

(k) paragraphs (13) and (16) shall be omitted.

**Additional contributions for current period.**

6. In regulation 14 for paragraphs (6) and (7) there shall be substituted the following paragraphs-

"(6) An additional contribution is payable for each financial year and is a percentage of the Notional Salary for so much of the period as falls within that year: Provided that contributions payable under this regulation shall be equal to and not exceed the amount of the contributions which would have been payable in respect of those years under the corresponding provision of the superannuation scheme for teachers in public employment in England and Wales for the time being in force.

(7) For the purposes of paragraph (6) -

(a) the notional salary is an amount which in the opinion of the Council the person could have expected to receive in respect of those years if pensionable employment had not ceased and the person had continued to be employed in the same post and on the same terms; and

(b) So much of the contributions paid by a person under this regulation as are equal to the contributions which would have been payable by him if he had continued to be employed in pensionable employment shall be treated as having been paid by way of teachers' contributions and the remainder shall be treated as having been paid by way of employer's contributions.

**Right to repayment of balance of contributions**

7. In regulation 16 for paragraph (2) there shall be substituted the following paragraph-

"(2) The relevant period is the period of one month beginning when he ceased to be in pensionable employment."

**Return of repaid contributions**

8. In regulation 20-

(a) for paragraph (2) there shall be substituted the following paragraph-

"(2) The return-

(a) may in any case, and

(b) if the amount of the contributions together with the interest payable does not exceed £500, must

be made by a single payment which must be made within ten weeks of the giving of notice under paragraph (1)."

(b) in paragraph (7) the words "are of equal amounts and" shall be omitted;

(c) after paragraph (7) there shall be inserted the following paragraph-

"(7A) Instalments are of equal amounts unless in any year the payment of an instalment of an amount equal to that paid in previous years would exceed the limit specified in paragraph (8) and in that event the instalments (and the corresponding period over which they are payable) shall be recalculated so that they do not exceed that limit.";

(d) for paragraph (8) there shall be substituted the following paragraph-

"(8) The annual amount of instalments paid under paragraph (7) is to be such that A+B does not exceed 15% of the annual rate of the person's contributable salary in the year where-

A is the annual amount of the instalments; and

B is the annual amount of other contributions paid under Part III (except any treated for the purposes of regulation 67 as employer's contributions) or towards the provision of a pension otherwise than under these Regulations."

**Deduction, payment and recovery of contributions.**

9. In regulation 22(1)(b) the words "or Part III" shall be omitted.

Past period for which additional contributions have been paid.

10 In regulation 25-

(a) in paragraph (1) -

- (i) the word "or" shall be omitted from the end of sub-paragraph (a) and inserted at the end of sub-paragraph (b);
- (ii) in sub-paragraph (b) the words "or Part III" shall be omitted; and
- (iii) after sub-paragraph (b) there shall be inserted the following sub-paragraph-

"(c) in respect of whom payment of additional contributions for a past period in accordance with Part II of Schedule 3 has been made,";

(b) after paragraph (1) there shall be inserted the following paragraphs-

"(1A) For the purposes of paragraph (1) a person who has at any time during the contribution period been in part-time pensionable employment shall not be treated as having completed the payment of additional contributions in accordance with Part I of Schedule 3 unless (in addition to the payments in accordance with that Part) he pays a lump sum determined in accordance with paragraph (1B).

(1B) The lump sum referred to in paragraph (1A) is such a sum as would be payable under Part II of Schedule 3 in order to count as reckonable service a period equivalent to the difference between the length of reckonable service which arises from the additional contributions paid during the contribution period and the length of such service if the person had been in full-time pensionable employment throughout the contribution period and paid additional contributions accordingly.

(1C) In paragraphs (1A) and (1B) "the contribution period" means the period during which additional contributions in accordance with Part I of Schedule 3 were paid."

(c) in paragraph (2) the words "or Part III" shall be omitted.

**Entitlement to payment of retirement benefits.**

11. In regulation 31-

(a) in paragraph (6) for sub-paragraph (c) there shall be substituted the following sub-paragraph-

"(c) has ceased after attaining that age to be-

- (i) in pensionable employment; or
- (ii) in employment which would be pensionable employment but for the fact that the person has not made an election under regulation 4, and";

(b) for paragraph (9) there shall be substituted the following paragraph-

"(9) In Case D the entitlement takes effect-

(a) where immediately before the person became incapacitated he was in employment of the type described in paragraph (7)(c)(ii), on the day after the last day of his employment; and

(b) in any other case-

(i) as soon as the person falls within the Case, or

(ii) if later, 6 months before the date of the last of any medical reports considered by the Council in determining under regulation 73 that the person had become incapacitated.

**Commutation: exceptional circumstances of ill health.**

12. After regulation 43 there shall be inserted the following regulation-

**"Commutation: exceptional circumstances of ill health.**

43A.(1) Where at the time when a person first becomes entitled to a retirement pension by virtue of regulation 31(3) or (5) there are exceptional circumstances of serious ill-health affecting that person the Council may discharge its liability in respect of so much pension as exceeds the person's guaranteed minimum by payment of a lump sum calculated in accordance with paragraph (2).

- (2) The lump sum is an amount equal to five times the amount by which the annual rate of the retirement pension which would otherwise be payable to the person exceeds the amount of his guaranteed minimum."

**Death grants and Supplementary death grants.**

13. In regulation 45(7) and regulation 46(5) for the word "person" in both places where it occurs there shall be substituted the word "individual."

**Entitlement to short-term family benefits.**

14. In regulation 49 for paragraph (2) there shall be substituted the following paragraph-

"(2) The short-term pension is payable -

(a) subject to paragraph (4) (a), to any surviving spouse, or if a nomination under regulation 48 had effect at the time of his death, to the nominated beneficiary; and

(b) if the deceased is survived by a child or children of his, to or for the benefit of the child or, as the case may be, the children jointly."

**Amount and duration of short-term family benefits.**

15. In regulation 50-

- (a) for paragraph (3) there shall be substituted the following paragraph-

"(3) Subject to paragraph (4), the duration of the short-term pension payable shall be ascertained from the table below and, in that table, "adult pension" means a short-term pension payable to the spouse or nominated beneficiary.

TABLE

Category	Person falling within regulation 49(2)	Duration of pension (Months)
1	Spouse or nominated beneficiary	3
2	One child or more where an adult pension is payable	3
3	One child or more where no adult pension is payable	6

**Records and information.**

16. In Regulation 69 after sub-paragraph (1) (f) there shall be inserted the following sub-paragraphs-

"(g) where during the financial year the person has spent one or more periods in part-time employment, the amount which his contributable salary would have been if the employment had been full-time throughout the year, and

(h) for the purposes of paragraph (1)(g), where a person's contract entitles him to remuneration at a rate which is not expressed as a proportion of the annual, termly or monthly rate for a comparable full-time employment, the amount which his contributable salary would have been if the employment had been full-time employment shall be calculated on the same basis as is used for the calculation of the person's salary in the part-time employment in question."

Glossary of expressions.

17. In Schedule 1-

(a) for the entry relating to the expression "Part-time" there shall be substituted the following-

"Part-time"	Employment is "part-time" if the contract requires the employee to work less than the whole of the working week;"
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(b) for the entry relating to the expression "Relief teacher" there shall be substituted the following-

"Relief teacher"	A person in pensionable employment who is employed in place of a person regularly employed and whose contract is a short-term one."
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Additional contributions for past period.

18. In Schedule 3

- (a) for paragraph 5(1)(a) there shall be substituted the following paragraph

"5(1)(a) before the end of the contribution period ceases to be in pensionable employment, and"

- (b) in paragraph 5(2) for the words from "elect to complete payment" to the end of the sub-paragraph there shall be substituted the words "make an election in accordance with sub-paragraph (2A) or, as the case may be, (5A)";

- (c) after paragraph 5(2) there shall be inserted the following sub-paragraphs-

"(2A) An election under this sub-paragraph may be made when the person has been in full-time pensionable employment throughout the contribution period;

(2B) An election under sub-paragraph (2A) is an election to complete the payment of additional contributions (so that regulation 25 (1)(b) will apply instead of regulation 25 (2)) by making a lump sum payment the amount of which shall be determined in accordance with sub-paragraphs (3), (4) or (5) as the case may be.";

- (d) After paragraph 5 (5) there shall be inserted the following sub-paragraphs-

"(5A) An election under this sub-paragraph may be made where the person has been in part-time pensionable employment at any time during the contribution period.

(5B) An election under sub-paragraph (5A) may be-

(a) an election to make a payment such that the person will be entitled to count as reckonable service the number of years which he would have been entitled to count if he had been in full-time pensionable employment throughout such of the contribution period as had elapsed before he ceased to be in pensionable employment and had paid additional contributions accordingly (so that regulation 25 (2) and paragraph 1C of Schedule 6 will apply accordingly);

(b) an election to complete payment of additional contributions as if he had been in full-time pensionable employment from the date on which he ceased to be in pensionable employment to the end of the contribution period (so that regulation 25 (2) and paragraph 1D of Schedule 6 will apply accordingly); or

(c) an election to complete payment of additional contributions as if he had been in full-time pensionable employment throughout the contribution period (so that regulation 25 (1)(b) will apply instead of regulation 25 (2));

in each case by making a lump sum payment.

(5C) Where the election is made under paragraph (a) of sub-paragraph (5B) the amount of the lump sum payment shall be such amount as would be payable under Part II of this Schedule in order to count as reckonable service the difference between the length of reckonable service arising from the additional contributions paid during such of the contribution period as had elapsed before the person ceased to be in pensionable employment and the length of such service if the person had been in full-time pensionable employment throughout that period and paid additional contributions accordingly.

(5D) Where an election is made under paragraph (b) of sub-paragraph (5B) the amount of the lump sum payment is one of the following amounts as appropriate-

- (a) the amount referred to in sub-paragraph (3) on the assumption that the person would have been in full-time pensionable employment for the remainder of the contribution period;
- (b) the amount referred to in sub-paragraph (4) on the assumption that the person would have been in full-time employment during such part of the contribution period as would have fallen after he attained the age of 60;
- (c) the amount referred to in sub-paragraph (5) modified (in a case where the person was employed part-time immediately before he ceased to be in pensionable employment) such that in place of the definition E there is substituted the following definition-

"E is the amount of the additional contributions for one year at the rate at which they would have been last payable on the assumption that the person would have been in full-time pensionable employment".

- (5E) Where an election is made under paragraph (c) of sub-paragraph (5B) the amount of the lump sum payment is the aggregate of the amounts referred to in sub-paragraphs (5C) and 5(D).

(5F) An election under sub-paragraph (5A) shall state whether it is an election under paragraph (a), under paragraph (b) or under paragraph (c) of sub-paragraph (5B).".

(e) Part III shall be omitted.

**Additional contributions for past period under earlier provisions.**

19. In paragraph 6 of Schedule 4 the words "Subject to sub-paragraph (2)" and sub-paragraph (2) shall be omitted.

**Family Benefits.**

20. In paragraph 11 of Schedule 5-

(a) after sub-paragraph (1) there shall be inserted the following sub-paragraph-  
"(1A) Where a woman's pensionable employment is part-time the reference in sub-paragraph (1)(d) to the rate at which contributions are to be paid is a reference to the rate as a percentage of the woman's full-time equivalent salary.",

(b) sub-paragraph (7)(b) shall be omitted.

**Uncompleted payment of additional contributions.**

21. In Schedule 6-

(a) in paragraph 1 (1)(a) the words "full-time" shall be omitted;

(b) in paragraph 1 (3) for the words "C is so much of B" there shall be substituted the words "C is the period which the person is entitled to count as reckonable service

(calculated, as appropriate, in accordance with the formula in regulation 23 (2)) which arises from the additional contributions paid during so much of the contribution period";

(c) in paragraph 1(5)(b)(iii) for the words "C is so much of the shortened contribution period" there shall be substituted the words "C is the period which the person is entitled to count as reckonable service (calculated, as appropriate, in accordance with the formula in regulation 23 (2)) which arises from the additional contributions paid during the shortened contribution period";

(d) in paragraph 2 (1) the words "or Part III" shall be omitted;

(e) in paragraph 2 (2) for the words "C is so much of B" there shall be substituted the words "C is the period which the person is entitled to count as reckonable service (calculated, as appropriate, in accordance with the formula in regulation 23 (2)) which arises from the additional contributions paid during so much of the contribution period";

(f) after paragraph 2 (2) there shall be inserted the following paragraphs-

"2A (1) This paragraph applies where a person has paid additional contributions for a past period in accordance with Part I of Schedule 3 for the whole of the period during which they were to be paid ("the contribution period") and

- (a) has been in part-time employment at some time during the contribution period; but
  - (b) has not made a lump sum payment under regulation 25 (1B).
- (2) In this paragraph, A is the past period and B is the contribution period.
- (3) The person is entitled to count as reckonable service-

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

where C is the period which the person is entitled to count as reckonable service (calculated in accordance with the formula in regulation 23 (2)) which arises from the additional contributions paid during the contribution period.

**2B** (1) This paragraph applies where a person paying additional contributions for a past period in accordance with Part I of Schedule 3-

- (a) has been in part-time employment at some time during the period during which contributions were to be paid ("the contribution period");
  - (b) ceases to be in pensionable employment before the end of the contribution period; and
  - (c) pays a lump sum payment under paragraph 5(5C) of Schedule 3.
- (2) In this paragraph, A is the past period and B is the contribution period.
- (3) The person is entitled to count as reckonable service-

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

where C is so much of B as has elapsed when the pensionable employment ended.

2C (1) This paragraph applies where a person paying additional contributions for a past period in accordance with Part I of Schedule 3-

- (a) has been in part-time employment at some time during the period during which contributions were to be paid ("the contribution period");
  - (b) ceases to be in pensionable employment before the end of the contribution period; and
  - (c) pays a lump sum payment under paragraph 5(5D) of Schedule 3.
- (2) In this paragraph, A is the past period and B is the contribution period.
- (3) The person is entitled to count as reckonable service-

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

where C is the aggregate of-

- (a) the period which the person is entitled to count as reckonable service (calculated in accordance with the formula in regulation 23 (2)) which arises from the additional contributions paid during so

much of the contribution period as has elapsed when the pensionable employment ended; and

(b) the period from the date when the pensionable employment ended to the end of the contribution period."

(g) in paragraph 3 (2) in the definition of B there shall be added the words-

" and, in the case of a person in part-time pensionable employment, on the assumption that he had made an election under paragraph 5(5B)(c) of Schedule 3".

(h) paragraph 4 shall be omitted.

**Elections in respect of protected benefits.**

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

(a) to whom a protected benefit is being paid or may become payable, and

(b) who is placed in a worse position than he would have been in if the provision made by these Regulations ("the relevant provision") had not applied in relation to the protected benefit.

(2) A protected benefit is one which is being paid or 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, or died before 1st October 1996.

- (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 relevant provision shall not apply in relation to the protected benefit.
- (4) If an election under paragraph (3) is made in relation to a benefit of a person who is in pensionable employment or who subsequently becomes re-employed in pensionable employment-
- (a) the election shall have effect in relation to a benefit only to the extent that it accrues by virtue-
    - (i) of periods of reckonable service before the cessation referred to in paragraph 2 (or, if there had been more than one cessation, the last of them before 1st October 1996);
    - or
    - (ii) of contributions paid in respect of such periods of reckonable service;
    - and
  - (b) in determining entitlement to, or the amount of, the benefit to that extent he shall be treated as if he had never re-entered pensionable employment again at any time after the cessation referred to in paragraph (2) (but without prejudice to the application of this paragraph);

and the principal Regulations shall apply accordingly.

Dated this twenty sixth day of March, nineteen hundred and ninety-eight.



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**

If a teacher has a reduction in his salary, but wishes to pay contributions on the former higher salary, he must now elect to do so within 3 months instead of 6 months.

**Regulation 5**

This regulation concerns the purchase of Past Added Years (PAYS). The change makes it clear that an employer is now allowed to purchase PAYS on behalf of an employee by means of a lump sum payment. The

regulation also allows part-time teachers to buy PAYS by instalments and deletes Method C one of three methods of payment that were available. Deletion of Method C leads to several consequential changes to other regulations which are noted below.

#### **Regulation 6**

This regulation concerns Current Added Years (CAYS) where a teacher continues to pay contributions to the Teachers' Scheme after he has left teaching service. The amendment clarifies the definition of the notional salary used to calculate the contributions payable.

#### **Regulation 7**

A teacher who is entitled to a refund of contributions will be able to have the refund one month after they have left pensionable service instead of three months as at present.

#### **Regulation 8**

This amendment makes minor changes to the methods of repayments available to a teacher who had a refund of their contributions before June 1973 and is eligible to repay them back into the scheme.

#### **Regulations 9 & 10**

These are consequential changes to other regulations which follow the deletion of the PAYS Method C in Regulation 2 above.

#### **Regulation 11**

This regulation allows a part-time teacher with a potential pension, but who has not elected for his current part-time employment to be treated as

pensionable, to be granted early retirement with payment of his pension benefits. The amendment also allows a teacher in non pensionable service, such as part-time service, to be granted any deferred pension benefits they are entitled to, if they become incapacitated.

**Regulation 12**

This regulation allows a teacher who has been granted early retirement on grounds of ill-health and is seriously ill to have a commutation to a lump sum of the infirmity pension payable. This would be equal to five times the amount of the infirmity pension.

**Regulation 13**

This is a minor amendment which clarifies that a teacher can nominate only one person and not several to receive any death grants payable should the teacher die in service.

**Regulation 14 & 15**

These regulations make minor amendments to the payment of short-term family benefits where a deceased teacher is survived by a child or children.

**Regulation 16**

This regulation clarifies what an employer is required to record in respect of a part-time teacher in pensionable employment.

**Regulation 17**

This regulation replaces two items in the Glossary of expressions, amending definitions to clarify the types part-time employment which can be treated as pensionable.

**Regulation 18**

These are consequential changes to other regulations which follow the deletion of the PAYS Method C in Regulation 2 above.

**Regulation 19**

Teachers who had made an earlier election to buy PAYS before 1988 no longer have to terminate that election to make an election under the revised PAYS provisions in place since 1988.

**Regulation 20**

This regulation enables a female part-time teacher to pay family benefits contributions for earlier service by instalments.

**Regulation 21**

These are consequential changes to other regulations which follow the deletion of the PAYS Method C in Regulation 2 above.

**Regulation 22**

This makes provision for an ex-teacher with protected benefits to opt out of any of these changes if they adversely affect him, as long as he gives notice within three months of the amendments coming into force.