

The Teachers' Superannuation (Guernsey)
(Amendment) Regulations, 2008 GUERNSEY

SI 2008/No.9

<i>Made</i>	<i>28th December, 2007</i>
<i>Coming into operation</i>	<i>1st January, 2008</i>
<i>Laid before the States</i>	<i>12th March, 2008</i>

ARRANGEMENT OF REGULATIONS

Part 1

General

1. Title, commencement and extent.
2. Interpretation.

Part 2

Amendment to Existing Scheme

3. Amendment to the Teachers' Scheme with effect from 1st January 2008

The Education Department, designated for the purpose of sections 1 and 3 of The Superannuation (Teachers and Teachers' Families) Guernsey Law, 1974, in exercise of the powers conferred on them by the said sections 1 and 3 and of all other powers enabling them in that behalf, hereby make the following Regulations:-

PART 1: GENERAL

Title, commencement and extent

1. (1) These Regulations may be cited as The Teachers' Superannuation (Guernsey) (Amendment) Regulations, 2008 and shall come into force with effect from 1st January 2008.

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

Interpretation

2. (1) In these Regulations,

‘Department’ means the Education Department (which has succeeded to the functions of the Council referred to in the Regulations)

‘Teachers’ Regulations’ means The Teachers’ Superannuation (Guernsey) Regulations, 2001

‘Teachers’ Scheme’ means the Teachers’ Superannuation scheme being the superannuation scheme which at the Change Date is regulated by the Teachers’ Regulations

(2) The Interpretation (Guernsey) Law, 1948 shall apply to the interpretation of these Regulations.

(3) In these Regulations,

(a) reference to an enactment includes a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment;

(b) reference to a section, paragraph, sub-paragraph, regulation, part or schedule is (unless otherwise stated) a reference to a section, paragraph, sub-paragraph, regulation, part or schedule of these Regulations.

PART 2: AMENDMENT TO THE TEACHERS’ REGULATIONS

3. (1) The Teachers’ Regulations are amended as follows:

Interpretation

Wherever in the Teachers’ Regulations there is a reference to the ‘Council’ this shall now be read and construed as a reference to the ‘Department’

Regulation 4(2)

Regulation 4(2) shall be amended by inserting at the end of that Regulation “except for any partial pension taken by that person under Regulation 32(B).”

**Regulation 6(1)(a), Regulation 15(5), Regulation 16(1), Regulation 17(5),
Regulation 38(1)(a) and Regulation 41(1)(c)**

Regulations 6(1)(a), 15(5), 16(1), 17(5), 38(1)(a) and 41(1)(c) shall in each case be amended by substituting '75' for '70'.

Regulation 9(1) and Regulation 13(3)

Regulation 9(1) and Regulation 13(3) shall in each case be amended by substituting '6.5' for '6'.

Regulations 10-14

Regulations 10-14 shall continue to apply to any person who has elected at any time on or before 31st December 2007 to pay additional contributions under any one or more of those Regulations including in relation to contributions to be paid following that election after 1st January 2008.

With effect from 1st January 2008 a person who otherwise would have been entitled to elect to make additional contributions under Regulations 10-14 inclusive except for the provisions of this Regulation shall not be entitled to elect to make additional contributions under Regulations 10-14 but may elect to purchase additional benefits in accordance with the following new Regulation 14A.

Additional Contributions

14(A).(1) A person in pensionable employment may, with the consent of the Department and subject to a medical report satisfactory to the Department, purchase additional benefits as the Department may approve, in accordance with the provisions of regulation 14(A)(2).

(2) Additional annual pension in multiples of £250 may be purchased by a person in pensionable employment by way of lump sum or periodical contributions (ascertained and certified as payable by the Actuary), up to a maximum total additional pension of £5,000 per annum. Such additional pension payable shall be increased from the date of purchase by the same rate of increase as other pension payable under regulation 42(1). The Department shall be entitled to review and amend from time to time the £250 purchase multiple and the £5000 maximum total additional pension able to be purchased by a person in pensionable employment.

Regulation 16(3)

Regulation 16(3) shall be amended by deleting the word 'and' on line 2 and inserting the following ', and 14A'.

Regulation 19 and Schedule 3

Paragraphs 19(6) and 19(9) of the Regulation and Paragraph 2(2) of Schedule 3 of the Regulations shall be deleted.

Regulation 21(1)(c)

In Regulation 21(1)(c) the words 'or regulation 14A' shall be inserted after the words '(Additional contributions for family benefits)'

Regulation 29

In Regulation 29(3) substitute for current subparagraph (c) new paragraph (c) as follows:

(c) falls within regulation 33(2)

In Regulation 29(4) substitute for current subparagraph (c) new paragraph (c) as follows:

(c) before he attains the age of 60, falls within regulation 33(2), and

Insert new Regulation 29(6A) as follows:

(6A) In Case F the person falls within regulation 32B

Insert new Regulation 29(13A) as follows:

29(13A) In Case F the person concerned shall be entitled to benefits as specified in regulation 32B.

Regulations 30(1) and 31(1)

Regulations 30(1) and 31(1) shall be amended in each case by inserting after the words "..... (Limitation of retirement benefits in certain cases)," the words "32(B) (Partial Pension)".

Regulation 31A

The following new regulation shall be inserted as Regulation 31A:

Surrender of part of pension for lump sum

31A (1) A person shall have an option when taking their retirement benefits of taking up to 25% of the value of that part of their retirement benefits which is then being taken by way of a lump sum by surrendering £1.00 of annual pension for £12.00 of lump sum.

(2) The lump sum shall be calculated in accordance with the following formula:

$$A\% \times [(20 \times B) + C]$$

Where 'A' is the percentage opted for by the person up to a maximum of 25%
'B' is the annual pension entitlement, and

'C' is the amount of the retirement lump sum calculated in accordance with regulation 31

- (3) For the avoidance of doubt:
- (a) the lump sum calculated and payable in accordance with this formula is inclusive of any retirement lump sum calculated in accordance with Regulation 31;
 - (b) that having calculated the lump sum under the above formula the amount of the retirement lump sum shall be deducted and only the balance divided by 12 to ascertain the amount of the pension surrendered; and
 - (c) that where the amount of the lump sum ascertained under the formula is less than the amount of the retirement lump sum payable, the option in regulation 31(1)(A) shall not be able to be exercised.

Regulation 32(7) and Schedule 6

In Regulation 32(7) the words 'and set out in Schedule 6' shall be deleted.

Schedule 6 shall be deleted in its entirety.

Regulation 32B

The following new regulation shall be inserted as Regulation 32B:

Partial Pension

32B. (1) This regulation applies in the case of any person in pensionable employment:

- (a) who is over the age of 55; and
- (b) is qualified for retirement benefits; and
- (c) who has given to the Department at least 12 months written notice (or such shorter period of written notice as the Department may accept in his particular case) of his election for a partial pension of not more than 75% of his accrued retirement benefits on and after a date specified in the notice ('the partial pension notice'); and
- (d) where, immediately following the taking of a partial pension, the contributable salary of that person will be reduced by 25% or more from the contributable salary received by that person immediately prior to the taking of the partial pension.

(2) In a case in which this regulation applies the person concerned shall be entitled, in place of any other benefits to which he may otherwise have become entitled under any other provision of these regulations,

- (a) on the specified date, to an actuarially calculated proportion of the retirement lump sum payable in relation to that proportion of the accrued retirement benefits to which the partial pension notice relates as if he had left pensionable employment on that date; and
- (b) to an actuarially calculated proportion of the pension payable in relation to that proportion of the accrued retirement benefits to which the partial pension notice relates as if he had left pensionable employment on that date.

(3) The actuarially calculated proportions referred to in this regulation are such as are ascertainable by reference to tables prepared by the Actuary from time to time and published by the Department for the purposes of this regulation as at the specified date.

(4) A notice given under sub-paragraph (1)(c) of this regulation may be withdrawn, by a further notice in writing given to the Department by the person concerned, at any time before, but not on or after, the specified date.

(5) A person may not elect to take a partial pension on more than two occasions.

(6) Regulation 31(A) in relation to commutation of retirement benefits to lump sums shall be applicable to any person wishing to take a partial pension under this regulation 32B.

(7) Any retirement benefits payable to a person upon retiring (whether before or after reaching the age of 60) shall be reduced by the amount of the benefits paid under this regulation and the residual benefits together with any that accrue from qualifying service following the taking of the partial pension shall then comprise the basis of any further entitlement to retirement benefits.

Regulation 33

Regulation 33 shall be deleted in its entirety and replaced by new Regulation 33 as follows

Enhancement of retirement benefits in case of incapacity or redundancy

33.(1) In this regulation 33 and elsewhere in these regulations

‘Total Incapacity’ means a state of health which precludes a person in pensionable employment from being employed altogether or allows that person to be employed only in a role carrying significantly

lower weight and or responsibility than that from which the person by reason of that state of health has had to retire, and
'prospective reckonable service' means those years of reckonable service pursuant to regulations 22 and 23 that a person in pensionable employment would have accrued from the date that he retired to his 60th birthday on the assumption that he had continued in his current employment had he not been retired by the Department under this Regulation 33.

(2) If, in the opinion of the Department (having consulted with any relevant employer and taken medical and other relevant advice), a person in pensionable employment is unable effectively to discharge his duties by reason of ill health or some defect or disability of mind or body, he may be retired by the Department (or other relevant employer) before his 60th birthday and in such case he shall be entitled on his retirement to retirement benefits by virtue of regulation 29 (3) or (4) calculated as follows:

- (a) if he is retired by reason of Total Incapacity he shall be entitled to retirement benefits based on the member's years of reckonable service plus one half of the prospective reckonable service; or
- (b) if he is retired under this regulation 33 other than by reason of Total Incapacity he shall be entitled to retirement benefits based on the member's years of reckonable service; or
- (c) if the person's years of qualifying service is less than 2 years, that person shall be entitled (whether he is retired for Total Incapacity or otherwise under this regulation 33) to a payment equal to 1/12 of the contributable salary and a retirement lump sum pursuant to regulation 31 or a refund of the member's contributions plus compound interest at 3% per annum with yearly rests at each 31st December, whichever is the greater,

and provided that

- (i) in the case of (a) and (b) he had completed periods of the kinds described in regulation 28(8) totalling at least two years, excluding any contribution refund period, and
- (ii) that in any such case the application for payment is made within 6 months after the end of his pensionable employment.

(3) The Department may credit a person who has become entitled to payment of retirement benefits by virtue of regulation 29(5) by reason of redundancy etc with a notional period of additional service for the purpose of enhancing his retirement benefits by virtue of this regulation, so however, that such period shall not exceed whichever is the shortest of the following periods, that is to say-

- (a) the period of 5 years; or

(b) the period to the 60th birthday of that person;

in each case adjusted pro-rata for qualifying part time employees; or

(c) the length of the appropriate reckonable service of that person (as defined by regulation 22) divided by 4,

but in no other circumstances.

Regulations 38 and 39

Regulations 38 and 39 shall be amended by inserting as new Regulation 38 (6) and Regulation 39(9) respectively the following:

“This regulation shall not apply by reason only of the fact that a person has become entitled to payment of a partial pension under regulation 32(B)”

Regulation 39(8)

Regulation 39(8) shall be amended by inserting after the words “...previously become entitled under this regulation” the words “including any lump sum payable under regulation 31A,”

Regulation 39A

Regulation 39(A)(5) shall be amended by substituting the reference to “regulation 33(9)” with “regulation 33”.

There shall be inserted new paragraph (6)(A) as follows:

“6(A) Where regulation 29(6A) applies, subject to paragraph (7), a person’s entitlement to retirement benefits takes effect in accordance with regulation 29(13A).”

Regulation 45(2)(b)(ii)

Regulation 45(2)(b)(ii) shall be amended by substituting the words ‘three times’ for ‘twice’.

Regulation 48

Regulation 48 shall be amended as follows:

Add the following new sub-paragraph to regulation 48 (3)

(c) a Qualifying Partner (subject to regulation 48(5) and (6)

Add new paragraph 48(5)

(5) Subject to the provision of Evidence of Financial Dependence a Qualifying Partner shall be entitled to the same benefits as a surviving spouse under these regulations except that the benefits payable to a Qualifying Partner shall be based on the deceased's reckonable service accruing after 1st January 2008 but provided that this provision shall not prevent the person from buying in earlier reckonable service, subject to any other provision of these regulations, at any time whilst they are a person in pensionable employment. A reference in these regulations to a 'surviving spouse' shall, where the context requires in order to give effect to this regulation 48(5), include a reference to a 'widow' or 'widower' where those terms are used in these regulations and a 'Qualifying Partner'.

Add new paragraph 48(6)

(6) In these regulations

'a Qualifying Partner' means a person who has been nominated in accordance with these regulations by a person entitled to receive retirement benefits at any time before those retirement benefits have been paid, and who at the time of any claim satisfies the nomination criteria;

'nomination criteria' means:

- (i) that the person and the nominated partner are living together in an exclusive committed long-term permanent relationship; and
- (ii) that the person and the nominated partner are both legally free to marry or would have been able to do so if the person and the nominated partner had not been of the same sex; and
- (iii) that neither are currently in a registered civil partnership with a third party; and
- (iv) that the nominated partner is financially dependent on the person or that the person and the nominated partner are financially dependent on each other; and
- (v) such other nomination criteria as the Department may from time to time require;

'Evidence of Financial Dependence' means evidence to the reasonable satisfaction of the Department to be provided at the time that any claim is made by the nominated partner for retirement benefits verifying financial dependency or interdependency and which may include some or all of the following and

such other evidence as may be reasonably requested by the Department:

- that the person and the nominated partner have lived together in a shared household for not less than two years;
- that there was shared household expenditure;
- that children of the person and the nominated partner were being jointly brought up;
- that the person and the nominated partner shared bank accounts, investments, loans;
- that wills and or life insurance policies have been executed naming the person and nominated partner as the main beneficiary of the other;
- that mutual powers of attorney have been executed; and
- that the death of the person has led to substantive increased living expenses for the nominated partner.

Regulation 53(11)

Regulation 53(11) shall be amended by substituting “1/160” for “1/60”.

Regulation 56

Regulation 56(1) shall be replaced by the following new Regulation 56(1):

56(1) Subject to paragraph (11) a person’s average salary

- (a) where the material part of his average salary service is less than one year, his annual salary for that part;
- (b) where the material part of his average salary service is one year or more but less than three years, his full salary for the best consecutive 365 days of that part;
- (c) where the material part of his average salary is three years or more then either:
 - (i) his full salary for the last consecutive 365 days of that part; or
 - (ii) the average annual salary of the highest 3 consecutive years within the last 10 years, each of the selected years of remuneration being revalued (before averaging) by reference to any increase in the Guernsey Index of Retail prices to the retirement date.

whichever is the higher.

Regulation 56(4) shall be replaced by the following new Regulation 56(4):

56(4) Transitional provisions apply so that in any application of these regulations that has taken place or will take place in relation to a person to which regulation 56 (1) is relevant ('the event'):

- (a) in respect of an event that has occurred at any time on or before 31st December 2007 there shall be no change in the ascertainment of average salary service adopted at that time, whether in relation to any decision or calculation or payment as at the date of the event or at any time subsequently;
- (b) in respect of any event occurring between 1st January 2008 and 31st December 2008 (both dates inclusive) Regulation 56 (1)(c)(ii) shall apply with the substitution of the word 'last' for 'highest' and with the deletion of the words 'within the last 10 years';
- (c) in respect of any event occurring between 1st January 2009 and 31st December 2009 (both dates inclusive) regulation 56(1)(c) (ii) shall apply with the substitution of 'four' for 'ten' and thereafter in respect of each subsequent year there is applied a further increment of one year until the 1st January 2015 and thereafter when Regulation 56(1)(c) (ii) shall apply unamended.

In Regulation 56(5) the words 'the period of 3 years referred to in paragraph (4)' shall be deleted and substituted by the words 'any period referred to in 56(1)'

In Regulation 56(13) the reference to the States of Guernsey Civil Service Board shall be replaced by a reference to the States of Guernsey Public Sector Remuneration Committee.

Regulation 57(2)(b)

Regulation 57(2)(b) shall be amended by adding the following as a new sentence at the end of that subparagraph:

In the event that any person in pensionable employment, as at 1st January 2008, would have, except for the application of any regulation having effect at any time on or before 31st December 2007, reckonable service of more than 40 years at the date of his 60th birthday, then, for the purpose of the calculation of reckonable service, including that acquired on or after 1st January 2008, that person shall be treated as having 40 years reckonable service as at 1st January 2008 or at the date of his 60th birthday if earlier.

Regulation 58(1)

Regulation 58(1) shall be amended to read:

58(1) Benefits are to be payable under this Part by the Department from the superannuation fund.

Schedule 1

In the definitions in Schedule 1

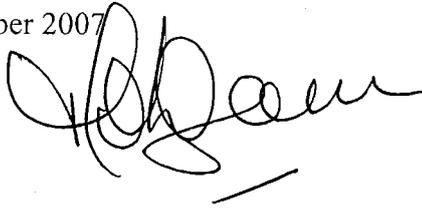
The definition of 'Actuarially reduced' shall be amended by deleting the words "set out in Schedule 6"

The definition of 'Incapacitated' shall be deleted.

Dated 28th December 2007

M. A. OZANNE

Minister
Education Department

A handwritten signature in black ink, appearing to read 'M. A. Ozanne', with a horizontal line underneath.

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 make provision for the Teachers' Regulations to be amended as follows:

Regulation 3 of these Regulations recognises the change brought about pursuant to the Resolution of the States 31st October 2003 when the function of The Education Council was transferred to the Education Department with effect from 1st May 2004.

The age of pensionable employment is extended from age 70 to 75 in **Regulations 6, 15, 16, 17 and 38** of the Teachers' Regulations.

In **Regulation 9** of the Teachers' Regulations the contribution rate for members of the Scheme is increased from 6% to 6.5%.

New **Regulation 14A** of the Teachers' Regulations is introduced by way of replacement of existing Regulations as to the basis on which additional pension benefits may be purchased by members. This allows the purchase of additional pension in multiples of £250 subject to an overall maximum of £5000 per annum. The purchase price for the additional pension is set by the Actuary.

Regulation 19 of the Teachers' Regulations and Schedule 3 which limit the total contributions able to be paid by a person to 15% of contributable salary have been deleted.

Regulation 29 of the Teachers' Regulations is amended to make a consequential amendment to new regulations 32B (Partial Pension) and 33 (Enhancement for Incapacity and Redundancy)

Regulation 32(7) and Schedule 6 of the Teachers' Regulations which sets out the Actuarial Tables to be used are deleted and the Actuary will in future use those tables as are appropriate from time to time.

Regulation 32B of the Teachers' Regulations now replicates the provisions in the Public Servants' Pension Scheme to allow a partial pension to be taken from age 55.

Regulation 33 of the Teachers' Regulations replaces the existing enhancement provision for incapacity and redundancy and now replicates those provisions in the Public Servants' Pension Scheme.

Regulation 39A of the Teachers' Regulations allows a person on retirement to take an increased lump sum calculated by commuting £1.00 of annual pension for £12.00 of lump sum.

Regulation 45(2)(b)(ii) of the Teachers' Regulations is amended to increase the death grant from twice salary to three times and contains similar provisions to those in the Public Servants' Pension Scheme.

Regulation 48 of the Teachers' Regulations is amended by adding a qualifying partner to those beneficiaries who may receive pension benefits upon a member's death subject to certain conditions being met.

Regulation 53(11) is amended to correct a textual error.

Regulation 56 of the Teachers' Regulations is amended to bring the definition of average salary upon which retirement benefits are calculated into line with the Public Servants' Pension Scheme so that the salary selected may be based on the average of three consecutive years in the last ten years, together with transitional provisions.

Regulation 57 of the Teachers' Regulations is amended to clarify that additional reckonable service can only accumulate over 40 years (to a maximum of 45 years) from the earlier of 1st January 2008 or that person's 60th birthday. This is because of the increase as from 1st January 2008 in the overall length of reckonable service that a person may acquire.

Regulation 58 simply clarifies that payments are made from the superannuation fund and not by the Department.

Other amendments are consequential upon the changes being made to the Regulations.

The Regulations come into effect from 1st January 2008.