STATUTORY INSTRUMENTS

1961 No. 324 (S. 20)

NATIONAL INSURANCE

The National Insurance (Modification of Teachers Superannuation) (Scotland) (No. 1) Regulations, 1961

Made - - - -	*24th February*, 1961
Laid before Parliament	*6th March*, 1961
Coming into Operation	*3rd April*, 1961

Whereas the Treasury have determined under subsection (4) of section 69 of the National Insurance Act, 1946(a), that the Secretary of State is the appropriate Minister to make regulations under that subsection to modify the provisions of the Education (Scotland) Act, 1946(b), the Teachers (Superannuation) (Scotland) Regulations, 1957(c), and other instruments relating to the superannuation of teachers employed in connection with education in Scotland:

Now therefore in exercise of the powers conferred on me by the said subsection (4), as extended by section 15 of the National Insurance Act, 1959(d), I hereby make the following Regulations:—

Citation and Commencement

1. These Regulations may be cited as the National Insurance (Modification of Teachers Superannuation) (Scotland) (No. 1) Regulations, 1961, and shall come into operation on the third day of April, 1961.

Interpretation

2.—(1) In these Regulations the following expressions shall have the meanings respectively which they have for the purposes of the National Insurance Act, 1959—

"graduated retirement benefit"
"non-participating employment"
"payment in lieu of contributions".

(2) Reference in these Regulations to any enactment, regulations or other instrument shall, except where the context otherwise requires, be construed as references to the enactment, regulations or other instrument as amended by or under any other enactment, regulations or other instrument, including these Regulations.

(3) The Interpretation Act, 1889(e), applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Modification of the Education (Scotland) Act, 1946

3.—(1) The provisions of section one hundred and six of the Education (Scotland) Act, 1946, and the Fourth Schedule to that Act (which provide for the keeping of a teachers superannuation account) shall have effect, subject to the modification that expenditure in respect of payments in lieu of contributions made under the National Insurance Act, 1959, shall be included

(a) 9 & 10 Geo. 6. c. 67.
(b) 9 & 10 Geo. 6. c. 72.
(c) S.I. 1957/356 (1957 I, p. 733).
(d) 7 & 8 Eliz. 2. c. 47.
(e) 52 & 53 Vict. c. 63.

in the teachers superannuation account in such manner as may be determined by the Secretary of State after consultation with the Treasury.

(2) In paragraph 14 of Part II of the Third Schedule to the Education (Scotland) Act, 1946, for the words "the National Insurance Act, 1946" there shall be substituted the words "the National Insurance Acts, 1946 to 1959".

Modifications of the Teachers (Superannuation) (Scotland) Regulations, 1957

4. Regulation 27 of the Teachers (Superannuation) (Scotland) Regulations, 1957 (hereinafter referred to as "the Regulations of 1957") (which provides for the return of contributions to teachers to whom Part III of the Regulations applies) shall be modified as follows:—

(*a*) The following paragraph shall be inserted after paragraph (4)—

"(4A) For the purposes of computing the sum repayable under either of the last two foregoing paragraphs to a teacher in respect of whom a payment in lieu of contributions has been made under the National Insurance Act, 1959, the amount recoverable under section 10 of that Act shall be deemed to have been deducted from his contributions on the date on which, disregarding any special arrangements of the kind referred to in paragraph (6) of Regulation 18 of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations, 1960(**a**), the payment in lieu of contributions became due."

(*b*) In paragraph (5) the words "under either paragraph (3) or paragraph (4) of this Regulation" shall be substituted for the words "under either of the last two foregoing paragraphs".

5. The following proviso shall be added to Regulation 28 of the Regulations of 1957 (which provides for the return of contributions to the personal representatives of teachers to whom Part III of the Regulations applies):—

"Provided that if a payment in lieu of contributions has been made under the National Insurance Act, 1959, in respect of the teacher, for the purposes of computing the sum payable to his personal representatives under this Regulation the amount recoverable under section 10 of that Act shall be deemed to have been deducted from his contributions on the date on which, disregarding any special arrangements of the kind referred to in paragraph (6) of Regulation 18 of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations, 1960, the payment in lieu of contributions became due".

6. The following paragraph shall be inserted after paragraph (2) of Regulation 37 of the Regulations of 1957 (which relates to the calculation of balance of contributions):—

"(2A) Where a payment in lieu of contributions has been made under the National Insurance Act, 1959, in respect of the teacher, in computing the balance of contributions repayable to the teacher or, as the case may be, payable to his personal representatives, the amount recoverable under section 10 of that Act shall be deemed to have been deducted from his contributions on the date on which, disregarding any special arrangements of the kind referred to in paragraph (6) of Regulation 18 of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations, 1960, the payment in lieu of contributions became due".

(a) S.I. 1960/1103 (1960 II, p. 2244).

7. The following paragraph shall be inserted after paragraph (5) of Regulation 41 of the Regulations of 1957 (which relates to the calculation of retiring allowances):—

"(5A) Where under paragraph (4) or paragraph (5) of this Regulation a period of first class service after the second day of April, 1961, which is non-participating employment within the meaning of the National Insurance Act, 1959, is not taken into account or is disregarded in the calculation of a retiring allowance, there shall be paid to the teacher a pension of an amount not less than the graduated retirement benefit which would be payable in terms of paragraph (*d*) of subsection (1) of section 8 of that Act".

8. The following head shall be inserted after head (ii) of sub-paragraph (*a*) of paragraph (2) of Regulation 44 of the Regulations of 1957 (which relates to the amount of pension that may be surrendered):—

"(iiA) so much of the pension granted or to be granted to him as would make the part thereof, as reduced by the amount surrendered, which is in respect of first class service after the second day of April, 1961, which was non-participating employment within the meaning of the National Insurance Act, 1959, less than the graduated retirement benefit which would be payable in terms of paragraph (*d*) of subsection (1) of section 8 of that Act".

9. The following proviso shall be added to Regulation 56 of the Regulations of 1957 (which provides for refusal or reduction of benefits):—

"Provided that no refusal or reduction of a retiring allowance shall be made in pursuance of this Regulation which would result in the teacher receiving, in respect of first class service after the second day of April, 1961, which is non-participating employment within the meaning of the National Insurance Act, 1959, a pension of an amount less than the graduated retirement benefit which would be payable in terms of paragraph (*d*) of subsection (1) of section 8 of that Act".

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
24th February, 1961.

EXPLANATORY NOTE

(This Note is not part of the Regulations but is intended to indicate their general purport.)

These Regulations modify certain provisions of the Education (Scotland) Act, 1946, relating to teachers' superannuation, and the Teachers (Superannuation) (Scotland) Regulations, 1957, in connection with the operation of the provisions of the National Insurance Act, 1959.

The Regulations provide for the payments in lieu of contributions required in terms of section 7 of the National Insurance Act, 1959, to be chargeable to the Teachers Superannuation Account, and for the exercise of the power given to employers under section 10 of the Act to recover half of a payment in lieu from a repayment of contributions.

The Regulations also provide that, where that part of a teacher's pension which is in respect of non-participating employment falls to be reduced, because service has been counted both for that pension and for another pension paid for out of public funds or because the teacher's retirement has been accelerated by misconduct or because the teacher has allocated part of his pension in favour of a beneficiary, the amount remaining after the reduction shall not be less than the maximum graduated National Insurance pension which would have been payable if the employment had not been non-participating employment.