



Jersey

R&O – 35/2005

**TEACHERS' SUPERANNUATION (GENERAL
PROVISIONS) (AMENDMENT No. 2) (JERSEY)
ORDER 2005**

Arrangement

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Jersey

TEACHERS' SUPERANNUATION (GENERAL PROVISIONS) (AMENDMENT No. 2) (JERSEY) ORDER 2005

Made

27th April 2005

Coming into force

in accordance with Article 25(2)

THE EDUCATION, SPORT AND CULTURE COMMITTEE, in pursuance of Articles 2 and 7 of the Teachers' Superannuation (Jersey) Law 1979¹ and after consultation with representatives of persons to whom the Order applies, orders as follows –

1 Interpretation

In this Order “principal Order” means the Teachers' Superannuation (General Provisions) (Jersey) Order 1986.²

2 Article 1 amended

In Article 1(1) of the principal Order for the definitions “guaranteed minimum allowance” and “guaranteed minimum pension” there shall be substituted the following definition –

“ ‘guaranteed minimum allowance’ and ‘guaranteed minimum pension’ shall be construed in accordance with Article 8;”.

3 Article 7 amended

In Article 7(4) of the principal Order, in the definition “full salary” –

- (a) for the words “paragraph (2) of Article 14” there shall be substituted the words “Article 10(2)”; and
- (b) for the words “Article 15” there shall be substituted the words “Article 14”.

4 Article 8 amended

In Article 8 of the principal Order –

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

“(1) In relation to an annual allowance or a spouse’s pension the expressions ‘guaranteed minimum allowance’ and ‘guaranteed minimum pension’ have the same meaning as that assigned to the expression ‘guaranteed minimum pension’ by section 8(2) of the Pension Schemes Act 1993 of the United Kingdom.”; and

(b) in paragraph (2) for the words “widow’s pension” there shall be substituted the words “spouse’s pension”.

5 Article 18 amended

In Article 18(2)(b) of the principal Order for the words “one-fifth of the sum specified by paragraph (1) of Article 15” there shall be substituted the words “1/5th of the amount of returned contributions plus interest specified in Article 15(1)”.

6 Article 19 amended

In Article 19(2) of the principal Order for the words “Contributions paid under Article 28 for any such period as is described in sub-paragraph (a) of paragraph (1) of Article 27” there shall be substituted the words “Contributions paid under Article 29 for any such period as is described in Article 28(1)(a)”.

7 Article 23 amended

For the heading to Article 23 of the principal Order there shall be substituted the following heading –

“23 Application of Article 22(9) (method D) in the case of a deceased teacher”

8 Article 31 amended

In Article 31(4) of the principal Order for the words “by his widow” there shall be substituted the words “by the teacher’s spouse”.

9 Part II Section C substituted

For Section C of Part II of the principal Order there shall be substituted the following Section –

“Section C

Special Contributions

33 Effect of Section C

The provisions of this Section have effect for the purpose of defraying, by the payment of special contributions, so much of the cost of any family benefits under Section B of Part III as is attributable to –

- (a) in the case of female teachers, reckonable service between 1st April 1972 and 5th April 1988 (both dates inclusive) in relation to a spouse's pension under Article 64; and
- (b) in the case of all teachers, reckonable service before April 1972.

34 Interpretation of Section C

In this Section –

‘member’ means a (male) teacher employed in reckonable service on or after 1st April 1972 who immediately before that date had service counting for benefit within the meaning of regulation 40 of the 1970 Regulations;

‘non-member’ means a teacher employed in reckonable service on or after 1st April 1972 who immediately before that date had no such service counting for benefit as is referred to in the definition of ‘member’;

‘credited service’ means a period equal to 165.6% of the aggregate of deemed normal service and deemed additional service;

‘deemed normal service’ means 2/3rds of any service before April 1972 in respect of which the full amount of normal contributions was held in the Fund, as defined in the 1970 Regulations, on 26th June 1973;

‘deemed additional service’ means the number of years determined in accordance with Table 1 in the Third Schedule as the value of any additional contributions held in that Fund on 31st March 1972 in respect of reckonable service before April 1972.

35 Member's contributions

- (1) A member who elected to pay additional contributions by Method I or Method II (within the meaning of the 1970 Regulations) shall pay contributions in respect of so much (if any) as he elects of his reckonable service before April 1972, not exceeding 5/6ths of the period by which the aggregate of the period in respect of which he elected to pay those contributions and his reckonable service

between the beginning of April 1966 and the end of March 1972 exceeds his credited service.

- (2) A member who elected to pay additional contributions by Method III (within the meaning of the 1970 Regulations) may, by notice in writing delivered to the Committee within the time specified for an election by Article 40, revoke his election to pay such contributions; and any such member who is not employed in reckonable service or does not so revoke that election shall pay contributions in respect of so much (if any) as he elects of his reckonable service before April 1972, not exceeding –
 - (a) 5/6ths of the period by which that service exceeds the aggregate of his credited service; and
 - (b) 6/5ths of the period (if any) in respect of which he elects to pay contributions under paragraph (1).
- (3) A member with service before April 1966 counting for benefit under the 1966 Regulations or the 1970 Regulations who did not elect to pay additional contributions in respect of any reckonable service before that date shall pay contributions in respect of so much (if any) as he elects of that service.

36 Non-member's contributions

- (1) A male non-member shall, if he so elects, pay contributions in respect of the whole of his reckonable service before April 1972 or, if that service amounts to 5 years or more, 5 or more complete years of that service as he may elect.
- (2) A female non-member shall, if she so elects, pay contributions in respect of the whole of her reckonable service between 1st April 1972 and 5th April 1988 (both dates inclusive) in relation to a pension payable to a spouse under Article 64 or, if that service amounts to 5 years or more, 5 or more complete years of that service as she may elect.
- (3) A female non-member –
 - (a) who elects under paragraph (2) to pay contributions in respect of the whole of her reckonable service between 1st April 1972 and 5th April 1988 (both dates inclusive) shall, if she so elects, pay contributions in respect of the whole of her reckonable service before April 1972 in relation to a pension payable to a spouse under Article 64, or, if that service amounts to 5 years or more, 5 or more complete years of that service as she may elect; and
 - (b) shall, if she so elects, pay contributions in respect of the whole of her reckonable service before April 1972 in relation to a pension payable to a nominated beneficiary or to or for the benefit of a child under Article 64 or 65 or, if that service amounts to 5 years or more, 5 or more complete years of that service as she may elect.

37 Retired teacher's contributions

- (1) A male teacher who, having been employed in reckonable service on or after 1st April 1972, retired from such service without having made an election under the preceding provisions of this Section or previous provisions to the like effect, shall, if allowances become payable to him and he then so elects, pay contributions in the form of a lump sum equal to the actuarial equivalent of the contributions that he could have elected to pay under Article 35(1) or (2) or 36(1) if he had again become employed in reckonable service before those allowances became payable to him.
- (2) A female teacher who, having been employed in reckonable service –
 - (a) on or after 1st April 1972 in relation to a pension payable to a nominated beneficiary or to or for the benefit of a child under Article 64 or 65; or
 - (b) on or after 6th April 1988, in relation to a pension a pension payable to a spouse under Article 64,

retired from such service without having made an election under the preceding provisions of this Section shall, if allowances become payable to her and she then so elects, pay contributions in the form of a lump sum equal to the actuarial equivalent of the contributions that she could have elected to pay under Article 36(2) and (3) if she had again become employed in reckonable service before those allowances became payable to her.

38 Deceased teacher's contributions

- (1) If a married teacher dies within 6 months of becoming employed in reckonable service without having made an election under the preceding provisions of this Section, then unless the teacher's spouse elects that Article 66 shall not apply, the amount determined under paragraph (2) shall be deducted from so much of the terminal sum payable in respect of the teacher as is applicable for the benefit of the teacher's spouse, or paid to the Fund in such manner as may be agreed.
- (2) The amount mentioned in paragraph (1) is the amount by which the cost of defraying so much of the pension payable to the spouse under Article 66 –
 - (a) in the case of a male teacher as relates to his reckonable service before April 1972; or
 - (b) in the case of a female teacher, as relates to her reckonable service before 6th April 1988,

as exceeds the actuarial equivalent of the special additional contributions that would have been payable by the teacher under this Section if the teacher had remained in reckonable service until he or she attained the age of 60.

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- (3) There shall be deducted from so much of the terminal sum payable in respect of a teacher as is applicable for the benefit of the teacher's spouse, or paid into the Fund in such manner as may be agreed, the actuarial equivalent of any pension payable to the spouse under Article 67.
 - (4) If in the case of any teacher –
 - (a) a deduction has been made from the terminal sum under paragraph (1) or (3), or previous provisions to the like effect;
 - (b) a retrospective increase (whether authorized before or after the commencement of this Order) in the salary payable in respect of the teacher's reckonable service would result in a further sum being payable by way of lump sum benefit; and
 - (c) the further deduction required by the provisions mentioned in sub-paragraph (a) would be greater than the sum mentioned in sub-paragraph (b),the teacher, or as the case may be the teacher's spouse, may elect not to pay those contributions, and in that event no further deduction shall be made from the terminal sum.
 - (5) References in this Article to sums applicable for the benefit of a teacher's spouse are references to sums that may be so applied in accordance with the teacher's will or, if the teacher died intestate, in accordance with the law relating to intestacy.

39 Election to pay special contributions

- (1) The first election by any teacher for the purposes of this Section shall specify –
 - (a) the number of years in respect of which the teacher elects to pay contributions; and
 - (b) the rate at which the teacher elects to pay contributions expressed as a percentage, being a whole number not exceeding 9, of the salary in respect of which the contribution falls to be paid.
 - (2) An election shall be made in writing and delivered to the Committee and shall be effective from the date of its receipt by the Committee.
 - (3) In so far as it specifies the number of years in respect of which contributions are to be paid, an election shall be irrevocable; but in so far as it specifies the rate at which contributions are to be paid, it may from time to time be varied by a subsequent election to pay contributions at a higher rate (expressed as is specified in paragraph (1)(b)) taking effect from the first day of the month next following that in which that subsequent election is received by the Committee.
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40 Time for making elections under Section C

- (1) A teacher may make a first election under this Section within the 6 months next following the first to occur of any of the following events –
 - (a) the teacher's marriage, if the teacher is then employed in reckonable service;
 - (b) the teacher becoming again employed in reckonable service after his or her marriage while not so employed;
 - (c) the teacher becoming again employed in reckonable service after ceasing to be so employed within the period specified by paragraph (3) for the making of an election; and
 - (d) the nomination by the teacher of a beneficiary under Article 63 who is of full age.
- (2) However, a female teacher may make a first election under this Section within 6 months of the date on which the Teachers' Superannuation (General Provisions) (Amendment No. 2) (Jersey) Order 2005 was made.
- (3) For the purposes of paragraph (1)(c), a first election for the purposes of this Section shall be made by –
 - (a) a member who was not employed in reckonable service for a continuous period of 6 months between the beginning of May 1974 and 1st January 1977; and
 - (b) a non-member who was not so employed for such a period after 26th June 1973 and before 1st January 1977,within 6 months of the teacher again becoming employed in reckonable service.

41 Determination by Committee

- (1) The Committee shall as soon as may be after the receipt of an election determine –
 - (a) in accordance with Table 2 of the Third Schedule the period for which contributions are required to be paid by the teacher; and
 - (b) the amount (if any) of any deduction that will fall to be made from the terminal sum payable in respect of the teacher under Article 43 by reason of the fact that the teacher will attain the age of 60 before the end of the period determined under sub-paragraph (a).
- (2) A determination under paragraph (1) or a previous provision to the like effect may be varied by a subsequent determination, and shall be so varied if –
 - (a) payment of contributions is interrupted by a break in service;
 - (b) the amount of the teacher's contributions is reduced by reason of the teacher being for the time being employed in

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- part-time reckonable service or (in the case of a teacher already so employed) being so employed for a smaller proportion of his or her time; or
- (c) a contribution is not paid.
- (3) The Committee shall as soon as may be after making a determination serve a notice in writing on the teacher specifying as may be appropriate –
- (a) the day on which, in accordance with Article 42, the payment of contributions is to begin;
- (b) the period for which contributions are required to be paid; and
- (c) any liability of the teacher to a deduction from the terminal sum payable in respect of the teacher by virtue of Article 43.

42 Rate and duration of contributions

- (1) Contributions shall be paid, at the rate for the time being specified by the teacher in an election under this Section, for so long as the teacher continues to be employed, or is treated as if he or she were employed, in reckonable service (any period in respect of which he or she pays contributions under Article 29 being treated as a period of employment in reckonable service).
- (2) Contributions shall begin to be paid by a teacher on the first day of the month next following the date of the notice served on him or her by the Committee under Article 41 and shall cease to be paid on whichever is the earlier of the day on which the teacher retires from reckonable service and the day specified in that notice as the last day on which contributions are required to be paid by the teacher.

43 Deduction from terminal sum

- (1) If a member who elected to pay contributions by Method III (within the meaning of the 1970 Regulations) and did not revoke his election to pay such contributions either –
- (a) does not elect to pay contributions under Article 35(2); or
- (b) elects to pay such contributions in respect of a period which is less than 2/3rds of the period in respect of which he elected to pay contributions by Method III,
- there shall be deducted from the terminal sum payable in respect of him the actuarial cost of defraying the benefits payable in respect of him in so far as they relate to his reckonable service before 1st April 1972.
- (2) If, as regards any teacher, the period determined under Article 41 ends after whichever is the later of the teacher's 60th birthday and the date on which allowances first become payable in respect of the teacher under Article 51(1)(a) or (b), there shall be deducted from

the terminal sum payable in respect of the teacher the amount mentioned in paragraph (3).

- (3) That amount is determined by multiplying the teacher's contributions for a year at the rate at which they were last payable by the number specified in column 2 of Table 2 in the Second Schedule opposite the period specified in column 1 of that Table that corresponds to the unexpired part of the period determined under Article 41, but where the unexpired part is not a whole number of years the number arrived at by interpolation shall be taken to be that so specified in the Table.
- (4) There shall be deducted from any terminal sum payable in respect of a teacher before the teacher's 60th birthday the actuarial equivalent of the amount that would have been outstanding for payment on that birthday if the teacher had continued to pay contributions under this Section at the last rate specified by the teacher until he or she attained the age of 60; and if any such teacher becomes again employed in reckonable service he or she shall be treated as having paid those contributions.
- (5) There shall be deducted from the terminal sum payable in respect of a teacher who was a former external contributor (within the meaning of the 1970 Regulations), or paid into the Fund in such manner as may be agreed, the actuarial equivalent of the cost of defraying such part of any pension payable in respect of that teacher as is attributable to contributions paid by the teacher under the provisions of an external scheme (within the meaning of those Regulations).
- (6) If in the case of any teacher –
 - (a) a deduction has been made from the terminal sum under paragraph (2) or (4), or previous provisions to the like effect;
 - (b) a retrospective increase (whether authorized before or after the commencement of this Order) in the salary payable in respect of the teacher's reckonable service would result in a further sum being payable by way of lump sum benefit; and
 - (c) the further deduction required by the provisions mentioned in sub-paragraph (a) would be greater than the sum mentioned in sub-paragraph (b),the teacher, or as the case may be the teacher's spouse, may elect not to pay those contributions, and in that event no further deduction shall be made from the terminal sum.”.

10 Article 47 amended

In Article 47(1)(c) of the principal Order for the words “to his widow or an adult nominated beneficiary” there shall be substituted the words “to the teacher's spouse or a beneficiary nominated under Article 63 who is of full age”.

11 Article 51 amended

In Article 51(1)(a)(iii) of the principal Order for the words “section 35 of the Social Security Pensions Act 1975 (c.60)” there shall be substituted the words “section 14 of the Pension Schemes Act 1993”.

12 Part III Section B substituted

For Section B of Part III of the principal Order there shall be substituted the following Section –

“Section B

Family Pensions

60 Interpretation of Section B

For the purposes of this Section –

- (a) ‘nominated beneficiary’ means a person nominated under Article 63 or (where the context so requires) a previous provision to the like effect;
- (b) a person who is incapacitated on the day when, apart from this Article, the person would be treated as ceasing to be a child shall be treated as being a child for so long as that incapacity persists;
- (c) in the case of a teacher who has not been employed in reckonable service after 5th April 1978, the references to the teacher’s spouse do not include references to a person whom the teacher married after the day on which the teacher was last employed in reckonable service.
- (d) ‘non-member’ has the meaning assigned by Article 34.

61 Short term pensions

- (1) This Article applies in the case of a teacher who dies –
 - (a) while employed in reckonable service;
 - (b) within one year of ceasing to be so employed by reason of ill-health; or
 - (c) while in receipt of an annual allowance.
- (2) If paragraph (1)(a) or (b) applies, a short term pension shall be paid –
 - (a) in the case of a teacher who is survived by a spouse, to the spouse;
 - (b) in the case of a teacher who is not survived by a spouse but is survived by a nominated beneficiary, the nominated beneficiary; or

- (c) in the case of a teacher who is not survived by a spouse or a nominated beneficiary but who is survived by a child or children, to or for the benefit of that child or those children jointly,

for a period determined in accordance with paragraph (7) or (8).

- (3) A pension payable under paragraph (2) shall be payable at the annual rate at which the teacher's salary was payable on the last day on which the teacher was employed in reckonable service or, if on that date the teacher was absent on sick leave and the teacher's salary was in consequence reduced, at the annual rate at which it would have been paid but for such reduction.
- (4) No pension is payable under paragraph (2) if a pension is payable under paragraph (5).
- (5) If paragraph 1(c) applies and the teacher is survived by a spouse or a nominated beneficiary who is entitled to a pension (otherwise than under this Article or Article 73(4)), the spouse or nominated beneficiary shall be paid a short term pension for a period determined in accordance with paragraph (7) at the annual rate at which the teacher's annual allowance was payable immediately before the teacher's death.
- (6) A short term pension shall begin to accrue on the day after the death of the teacher.
- (7) A short term pension in respect of a teacher who is survived by a spouse or a nominated beneficiary shall be paid for 3 months unless –
- (a) the teacher had less than 5 years reckonable service;
 - (b) the teacher is survived by a child or children; and
 - (c) the person to whom the pension is payable is the surviving spouse of the teacher or has care of the teacher's child or children,

in which case the pension shall be paid for 4½ months if the teacher is survived by one child or for 6 months if the teacher is survived by more than one child.

- (8) A pension under paragraph (2) in respect of a teacher who is not survived by a spouse or a nominated beneficiary but who is survived by a child or children shall be paid for 2 months if the teacher is survived by one child or for 4 months if the teacher is survived by more than one child.

62 Entitlement to long term pension

- (1) Subject to Article 65(2), a pension shall be paid on the death of a teacher to whom paragraph (2) applies –
- (a) if the teacher is survived by a spouse, to that spouse under Article 64;

- (b) if the teacher is survived by a child, to or for the benefit of that child under Article 65;
- (c) if the teacher is not survived by a spouse or a child but is survived by a nominated beneficiary of full age, to the nominated beneficiary under Article 64; and
- (d) if the teacher is not survived by a spouse or a child but is survived by a nominated beneficiary who is not of full age, to the nominated beneficiary under Article 65 as if the nominated beneficiary were the teacher's child.

- (2) This Article applies to a teacher who was employed in reckonable service on or after 1st April 1972 and the teacher's reckonable service on or after that date, when aggregated with any such service before that date in respect of which the teacher elected to pay contributions, amounted to at least 5 years.

63 Nomination of beneficiaries

- (1) An unmarried teacher in reckonable service may at any time nominate to receive a pension under this Order –
- (a) the teacher's parent;
 - (b) an unmarried descendant of either of the teacher's parents;
 - (c) the teacher's widowed stepmother or stepfather; or
 - (d) any unmarried descendant of the teacher's deceased spouse,
- if the person nominated is, at the time of the nomination, wholly or mainly dependent on the teacher and no other nomination made by the teacher for the purposes of this Part or of previous provisions relating to family benefits is in force.
- (2) The nomination of a beneficiary under this Article shall become void –
- (a) on the receipt by the Committee of a written notice of revocation by the teacher;
 - (b) on the death or marriage of the nominated beneficiary;
 - (c) on the teacher's marriage;
 - (d) if the nominated beneficiary is not of full age, on his or her attaining full age.

64 Amount of pension for spouse or adult beneficiary

- (1) The annual amount of a pension payable to a spouse or a nominated beneficiary of full age shall be calculated by multiplying 1/160th of the teacher's average salary by the number of years of the teacher's reckonable service counting for benefit for the purposes of this Article.
- (2) Subject to paragraph (5) or (6), the reckonable service of a teacher counting for benefit for the purposes of this Article is the aggregate of the teacher's reckonable service since the beginning of

April 1972 and so much of the service to which paragraph (3) applies as does not exceed the aggregate of –

- (a) the teacher's reckonable service between the beginning of April 1966 and the end of March 1972; and
- (b) any service (whether reckonable or not) before April 1966 in respect of which the teacher could have elected to pay additional contributions under the 1966 Regulations or the 1970 Regulations,

and added years which the teacher has since the beginning of April 1972 elected to purchase under Article 24 or a previous provision to the like effect being treated for the purposes of sub-paragraphs (a) and (b) as reckonable service since the beginning of April 1972.

(3) As regards any teacher, this paragraph applies to –

- (a) any reckonable service before April 1972 or, in the case of a pension payable to a spouse who is a widower (but not a nominated beneficiary), before 6th April 1988, in respect of which the teacher elected to pay contributions under Section C of Part II or a previous provision to the like effect;
- (b) any service (whether or not it is reckonable service) before April 1972 in respect of which the teacher paid contributions or elected to pay (and did not revoke the election to pay) additional contributions under the 1966 Regulations or the 1970 Regulations –
 - (i) augmented by so much of any other service as is specified in an election by the teacher to pay contributions under Article 39 or a previous provision to the like effect, or
 - (ii) (if no other service is specified in such an election) reduced by 6/5ths of so much (if any) of the teacher's service before April 1972 in respect of which the teacher did not elect to pay contributions;
- (c) any service in respect of which contributions have been deducted from the terminal sum payable in respect of the teacher by virtue of Article 43;
- (d) any war service in respect of which the teacher paid contributions under Article 31 or a previous provision to the like effect;
- (e) so much of the teacher's credited service (within the meaning of Article 34) as exceeds the service specified by sub-paragraph (b);
- (f) if the teacher died while employed in reckonable service, or while in receipt of an annual allowance under Article 51(1)(b), such number of years as bears to any period which (disregarding any past added years which the teacher elected to purchase) was or could have been added to the teacher's reckonable service by virtue of Article 52 the same

- proportion as the aggregate number of years of the teacher's reckonable service since the beginning of April 1972 and any such service under sub-paragraphs (a), (b) and (c) bears to the teacher's total reckonable service;
- (g) any other service which, if the teacher had died between the beginning of April 1972 and the end of April 1975, would have been taken into account in calculating a pension paid to the teacher under regulation 23(3) of the Teachers' Superannuation (Family Benefits) (Amendment) Regulations 1973, as applied to Jersey by the Transitory Provisions Order;
 - (h) any added years which the teacher has since the beginning of April 1972 elected to purchase under Article 24 or a previous provision to the like effect; and
 - (i) any previous service (within the meaning of the 1966 Regulations or the 1970 Regulations) in respect of which the teacher paid contributions by Method I or Method II (within the meaning of those Regulations) after the end of March 1972 if those contributions have not been repaid to the teacher.
- (4) When the service to which paragraph (3) applies exceeds the service specified by paragraph (2), paragraph (1) shall be read with the substitution for the numerator of the fraction there specified of the number in years of the aggregate of the reckonable service of the teacher and the amount of the excess.
 - (5) In the case of a spouse of a teacher (employed in reckonable service after 5th April 1978) who is a widow and who married him 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 Article is his reckonable service after 5th April 1978.
 - (6) In the case of a spouse of a teacher who is a widower (but not a nominated beneficiary), the reckonable service of the teacher counting for the purposes of this Article is her reckonable service on or after 6th April 1988 together with any reckonable service before that date in respect of which she elected to pay contributions under Article 36(2) or (3).
 - (7) In any case where an election has been made by the teacher or the teacher's spouse under Article 38(4) or Article 43(6), the retrospective increase in the teacher's salary referred to in the appropriate paragraph shall be ignored in calculating the teacher's average salary for the purposes of paragraph (1).

65 Amount of child's pension

- (1) Subject to paragraph (6), if the teacher is survived by a spouse or a nominated beneficiary of full age, the annual amount of a pension payable to or for the benefit of a child shall, for so long as that spouse or beneficiary survives, be calculated –

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- (a) for so long as there are 2 or more children, by multiplying 1/160th of the teacher's average salary by the number of years of service counting for benefit for the purposes of Article 64 as if paragraphs (5) and (6) of that Article were omitted; or
- (b) for so long as there is not more than one child, by multiplying 1/320th of the teacher's average salary by the number of those years,
- and on the death of the spouse or beneficiary the amount of the pension shall be calculated in accordance with paragraph (2).
- (2) If the teacher is not survived by a spouse or a nominated beneficiary of full age –
- (a) Article 62 shall have effect with the substitution of the reference to service to which that Article applies of a reference to the aggregate reckonable service of the teacher; and
- (b) paragraph (1) shall have effect with the substitution for the references to 1/160th and 1/320th of the teacher's average salary and the number of years of his or her service counting for benefit of (respectively) references to 1/120th and 1/240th of the teacher's average salary and the number of years of the teacher's reckonable service to which this subparagraph applies.
- (3) Only one pension shall be payable at any one time in respect of the children of any teacher; and if apart from this paragraph more than one such pension would be payable the greater of those pensions shall be paid.
- (4) Paragraph (2)(b) applies to the reckonable service of the teacher together, if the teacher died while employed in reckonable service or while in receipt of an annual allowance to which he or she became entitled by virtue of Article 51(1)(b), with such number of years (disregarding any past added years which the teacher elected to purchase) as could have been added to his or her reckonable service by virtue of Article 52(3).
- (5) If the reckonable service of a teacher by reference to which any pension payable under this Article is calculated exceeds the period specified by Article 64(2) the numerator of any fraction specified in this Article shall be the number in years of the aggregate of the reckonable service of the teacher and the amount of the excess.
- (6) If the teacher is survived by a spouse whom the teacher married after the day on which he or she was last employed in reckonable service but his or her surviving children include a child of a marriage contracted on or before that day (the 'previous marriage') then, so long as there is a child of the previous marriage, paragraph (7) shall apply to the exclusion of paragraph (1) for the purposes of calculating the pension in respect of the teacher's children.
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- (7) If 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 2 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 or her service that would count for benefit for the purposes of Article 64 as if paragraphs (5) and (6) of that Article were omitted; or
 - (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 that 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 or her service that actually counts for benefit for the purposes of Article 64 as if paragraphs (5) and (6) of that Article were omitted.
- (8) For the purposes of paragraphs (6) and (7), 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 or she were a child of that marriage.

66 Special pension for spouses

Unless he or she elects that this Article shall not apply, there shall be paid to the spouse of a teacher to whom Article 38(1) applies a pension, as the spouse may elect, of either –

- (a) one-half of the annual allowance that would have been payable to the teacher if on the day of his or her death such an allowance had been payable to the teacher under Article 51(1)(b); or
- (b) such lesser amount (but not less than $5/160$ ths of the teacher's average salary) as the spouse may elect within such time as is specified in a notice served on the spouse by the Committee specifying the contribution payable in respect of that pension under Article 38.

67 Special provision for spouses of certain non-members

- (1) If a spouse so elects by notice in writing to the Committee within 3 months of the teacher's death, a pension shall be paid to the spouse of any non-member who dies without having been employed in reckonable service since 25th June 1973 and in respect of whom a death gratuity is payable under Article 56(2).
 - (2) A pension under this Article shall be calculated by multiplying $1/160$ th of the teacher's average salary by the number of years by reference to which the death gratuity falls to be calculated.
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68 Duration of pensions

- (1) A long-term pension payable to the teacher's spouse, or a nominated beneficiary of full age shall begin to accrue on the termination of any short-term pension payable to that person or, if no such pension is payable to that person, on the day following the death of the teacher.
- (2) If the annual rate of the long-term pension payable to a spouse exceeds the annual rate of the short-term pension, the long-term pension shall be paid in substitution for the short-term pension.
- (3) A long-term pension payable to or for the benefit of a child shall, if a short-term pension is payable to the child or the child's parent, begin to accrue on the termination of the short-term pension and, if no such short-term pension is payable, on the day following the death of the teacher.
- (4) If a person to whom a long-term pension is payable under paragraph (1) marries, then, unless the Committee otherwise directs and subject to paragraph (6) –
 - (a) in the case of a pension payable to a spouse who has attained insured pensionable age, being the spouse of a teacher who was employed in reckonable service after 5th April, 1978, which includes a period of service in the United Kingdom which was credited to the teacher by virtue of interchange provisions, and in respect of which the teacher has an earner's guaranteed minimum within the meaning of section 14 of the Pension Schemes Act 1993 of the United Kingdom, so much of the pension as exceeds the spouse's guaranteed minimum pension shall cease to be payable; and
 - (b) in the case of any other pension, the whole pension shall cease to be payable.
- (5) If a person to whom a long-term pension is payable under paragraph (1) begins to live as husband and wife with a person to whom he or she is not married, then, unless the Committee otherwise directs and subject to paragraph (6) –
 - (a) in the case of a pension payable to the spouse of a teacher who was employed in reckonable service after 5th April, 1978, which includes such a period of service as is mentioned in paragraph (4)(a), so much of the pension as exceeds the spouse's guaranteed minimum pension shall cease to be payable and, in respect of any period before the spouse has attained insured pensionable age for which the spouse is so living, the balance of the pension shall also not be payable; and
 - (b) in the case of any other pension, the whole pension shall cease to be payable.
- (6) Any pension which has ceased to be payable under paragraph (4) or paragraph (5), in whole or in part, shall, if the Committee so directs, again become payable, or wholly payable, on the

pensioner's marriage terminating (by death or divorce) or, as the case may be, on the pensioner ceasing to live as husband and wife with a person to whom he or she is not married.

- (7) A pension payable to or for the benefit of a child shall cease when he or she ceases to be a child.
- (8) A pension payable to a nominated beneficiary who is not of full age shall cease to be payable when he or she attains full age.
- (9) Subject to paragraphs (4), (7) and (8), a pension under this Article shall be paid until the death of the person to or for whose benefit it is payable.”.

13 Article 70 amended

In Article 70(3) of the principal Order for the words “paragraph (2) of Article 44” there shall be substituted the words “Article 59(2)”.

14 Article 72 amended

In Article 72(8)(b) of the principal Order for the words “sub-paragraph (b) and paragraph (2) of Article 56” there shall be substituted the words “Article 56(1)(b) and (2)”.

15 Article 73 amended

For Article 73(1) and (2) of the principal Order there shall be substituted the following paragraphs –

- “(1) A teacher may, in accordance with the Fourth Schedule, by declaration allocate not more than 1/3rd of the annual allowance payable to the teacher by virtue of Article 51(1)(a) to the payment, as he or she may elect, of either –
 - (a) a pension commencing on the teacher's death to his or her spouse or a person dependent on the teacher for the life of the spouse or dependant; or
 - (b) an annuity payable to the teacher for the joint lives of the teacher and his or her spouse and, on the teacher's death, a pension for life to the spouse.
- (2) In paragraph (1) ‘spouse’ means spouse at the time of the declaration.”.

16 Article 75 substituted

For Article 75 of the principal Order there shall be substituted the following Article –

“75 Abatement of annual allowance on account of long-term sick pay

- (1) Subject to Article 78, an annual allowance shall be reduced by the amount by which the aggregate of that allowance and any remuneration paid to the teacher in respect of a period of absence on long-term sick leave exceeds the teacher's previous salary.
- (2) In this Article –
‘long-term sick leave’ means a period of continuous absence on sick leave exceeding 12 months or, in the case of absence on account of pulmonary tuberculosis, 18 months;
‘previous salary’ has the same meaning as in Article 74.”.

17 Article 78 amended

In Article 78(1) of the principal Order for the words “the Social Security Pensions Act 1975 (c.60)” there shall be substituted the words “section 14 of the Pension Schemes Act 1993”.

18 Article 79 amended

In Article 79(1) of the principal Order for the words “a contracted-out scheme or an approved overseas scheme within the meaning of the Social Security Pensions Act 1975 (c.60)” there shall be substituted the words “a salary-related contracted out scheme or an overseas arrangement within the meaning of the Pension Schemes Act 1993”.

19 Article 80 amended

In Article 80 of the principal Order the words “, being a contracted-out scheme or an approved overseas scheme within the meaning of the Social Security Pensions Act 1975 (c.60) of the United Kingdom” shall be deleted.

20 Article 81 amended

For Article 81(1) of the principal Order there shall be substituted the following paragraph –

- “(1) Despite any provision of this Order to the contrary, if a teacher to whom Article 80 applies has a guaranteed minimum under section 14 of the Pension Schemes Act 1993 of the United Kingdom –
 - (a) the weekly rate of the teacher's annual allowance at insured pensionable age shall be not less than that guaranteed minimum; and
 - (b) the weekly rate of pension payable to the teacher's spouse shall be not less than half that guaranteed minimum,and for the purposes of this Article, the weekly amount of an allowance or pension shall be taken to be the annual amount

thereof divided by 52, the result being rounded to the nearest whole penny taking 0.5p as nearest to the whole penny above.”.

21 Second Schedule amended

In Table 2 in the Second Schedule to the principal Order for the word “43(2)” there shall be substituted the word “43(3)”.

22 Third Schedule amended

For the notes below Table 2 in the Third Schedule to the principal Order there shall be substituted the following notes –

“NOTES 1. A teacher who, before the date specified in relation to the teacher under Article 41(3)(a), paid, in accordance with the 1966 Regulations or the 1970 Regulations, additional contributions so payable after 31st March 1972, shall be taken to have paid contributions in accordance with Article 42 at the rate specified by the teacher in accordance with Article 39(1)(b) for the number of years equal to the fraction of which the denominator is that rate and the numerator is the amount of those contributions expressed as a percentage of the teacher’s annual salary on the day specified; and as regards any such teacher, that number shall accordingly be deducted from the period determined in accordance with the Table above.

2. The necessary interpolations are to be made where the period elected under Article 39(1)(a) is not an exact number.”.

23 Fifth Schedule amended

In Part I of the Fifth Schedule to the principal Order –

- (a) in paragraphs 1(1)(c) and 2(2) for the words “widow’s pension” there shall be substituted the words “spouse’s pension”; and
- (b) in paragraph 3, in column 1 of the Table for the words “Widow’s pension” there shall be substituted the words “Spouse’s pension”.

24 Saving

If, immediately before this Order was made, there was in force a nomination made by a married female teacher for the purposes of Article 63 of the principal Order, or of previous provisions relating to family benefits –

- (a) in favour of a person other than the teacher’s husband; and
- (b) the teacher died before this Order was made,

the principal Order shall apply in respect of that teacher’s pension as if this Order had not been made.

25 Citation and commencement

- (1) This Order may be cited as the Teachers' Superannuation (Amendment No. 2) (Jersey) Order 2005.
- (2) This Order shall be deemed to have come into force on 6th April 1988.

M.N. DE LA HAYE

Greffier of the States.

¹ *Recueil des Lois, Volume 1979-1981, pages 174 and 179.*

² *Nos. 7546 and 9032.*