

PROJET DE LOI

ENTITLED

The Superannuation (Teachers and Teachers' Families) (Guernsey) Law, 1974 *

[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XXIV, p. 265; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Law is applied to the Island of Alderney by the Alderney (Application of Legislation) (Superannuation) (Teachers and Teachers' Families) Ordinance, 1978 (Recueil d'Ordonnances Tome XXI, p. 135).

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ARRANGEMENT OF SECTIONS

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The Superannuation (Teachers and Teachers' Families) (Guernsey) Law, 1974

THE STATES, in pursuance of their Resolution of the thirtieth day of January, nineteen hundred and seventy-four, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

Superannuation of teachers.

1. (1) The States [Committee for Education, Sport & Culture] (in this Law referred to as "[**the Committee**]") may from time to time by regulations make provision with respect to the pensions, allowances or gratuities which, subject to the fulfilment of such requirements and conditions as may be prescribed by the regulations, are to be, or may be, paid by [the Committee] to or in respect of teachers.

(2) Without prejudice to the generality of subsection (1) of this section, regulations under this section may include provision –

- (a) as to the means by which the cost of providing the benefits for which the regulations provide is to be defrayed, including provision for the making of contributions or other payments by teachers and by the employers of teachers or such other persons as may be prescribed by the regulations,
- (b) for the establishment and administration of superannuation funds, the management and application of the assets of such funds, the amalgamation of all or any of such funds, the amalgamation of all or any such

funds with any other superannuation fund administered on behalf of the States, and the winding up of, or other dealing with, any such fund,

- (c) for the payment and receipt of transfer values or in lieu thereof for the transfer or receipt of any fund or part of a fund or policy of insurance,
- (d) for reckoning in respect of a teacher any service as service in respect of which such benefits are payable, either unconditionally or subject to such conditions as may be prescribed by the regulations and either as respects the whole of the service or as respects such fraction thereof as may be so prescribed,
- (e) for the making by such persons as may be prescribed by the regulations of payments towards the provision (otherwise than under the regulations) of pensions, allowances and gratuities in such cases as may be determined in accordance with the regulations,
- (f) as to the circumstances in which contributions paid by any person in accordance with the regulations, or any part thereof, may be repaid with or without interest,
- (g) for securing that where –
 - (i) the regulations provide for the payment to or in respect of a teacher of a pension (which expression, in this paragraph, includes an allowance and a gratuity) in consequence of his having been incapacitated, or having died, as a result of an injury sustained, or disease contracted, in circumstances prescribed by the regulations, and

- (ii) any damages in respect of the injury, disease or death in consequence of which the pension is paid are recovered by or on behalf of the person to whom the pension is paid,

the amount of any payments made to that person in respect of the pension before the right to, or amount of, such damages is finally determined, or such part of those payments as may be determined in accordance with the regulations, may be recovered from that person in such circumstances and subject to such conditions as the regulations may provide,

- (h) authorising the payment, without probate or other proof of title, of any sum due under the regulations in respect of a person who has died to his personal representatives or such other person as may be prescribed by the regulations,
- (i) for rendering void any assignment of, or charge on, or any agreement to assign or charge, any benefit under the regulations, and that on the insolvency of a person entitled to such benefit no part thereof shall pass to any trustee or other person acting on behalf of the creditors,
- (j) for the determination of any question arising under the regulations and for any decision in accordance with the regulations of any such question to be final,
- (k) for conferring on such persons as may be prescribed by the regulations such functions as [the Committee] considers necessary or expedient for the purposes of the regulations,
- (l) for repealing or amending any provision in any

enactment, or in any order or other instrument made under any enactment, where it appears to [the Committee] that that provision is inconsistent with, or has become unnecessary or requires modification in consequence of, the regulations,

and may include such incidental, supplementary, consequential and transitional provisions as appear to [the Committee] to be necessary or expedient.

- (3) Regulations made under this section may be framed –
- (a) so as to apply in relation to the benefits which are being paid or may become payable under the regulations to or in respect of persons who, having served in an employment service in which qualifies persons to participate in the benefits for which the regulations provide, have ceased to serve therein or died before the regulations come into operation, or
 - (b) so as to require or authorise the payment of pensions to or in respect of such persons,

but provision shall not be made by any regulations by virtue of this subsection unless any person who is placed in a worse position than he would have been in if the provision had not applied in relation to any benefit which is being paid or may become payable to him is by the regulations given an opportunity to elect that the provision shall not so apply.

NOTES

In section 1, the words, first, "Committee for Education, Sport & Culture" and, second, "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 3 and section 5(1), Schedule 3. paragraph 3, with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Education Department and its Minister arising under or by virtue of this Law were transferred to and

vested in, respectively, the Committee for Education, Sport & Culture and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 3, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

The Law is applied to the Island of Alderney by the Alderney (Application of Legislation) (Superannuation) (Teachers and Teachers' Families) Ordinance, 1978, section 1, with effect from 1st May, 1978.

The following Ordinance has effect as if made under this Law:

Teachers' Superannuation (Family Benefits) Ordinance, 1967.

The following Regulations have been made under section 1:

*Teachers' Superannuation (Guernsey) Regulations, 2001;
Teachers' Superannuation (Guernsey) (Amendment) Regulations,
2008.*

Compensation for loss of employment.

2. (1) [The Committee] may from time to time by regulations make provision for the payment by [the Committee] of pensions by way of compensation to or in respect of teachers who suffer loss of employment, or loss or diminution of emoluments, in such circumstances, or by reason of the happening of such an event, as may be prescribed by the regulations.

(2) Without prejudice to the generality of subsection (1) of this section, regulations under this section may include provision –

- (a) as to the manner in which any claim for compensation is to be made,
- (b) for the determination of any question arising under the regulations and for any decision in accordance with the regulations of any such question to be final,

and may include any such provision as is referred to in paragraphs (h) and (i) of subsection (2) of section one of this Law and such incidental, supplementary, consequential and transitional provisions as appear to [the Committee] to be necessary or expedient.

NOTE

In section 2, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3. paragraph 3, with effect from 1st May, 2016.

Further provisions as to regulations made under this Law.

3. (1) Regulations made under this Law may be framed so as to have effect as from a date earlier than the date on which the regulations are made:

Provided that regulations made under section two of this Law and having such effect shall not place any person who is qualified to participate in the benefits for which the regulations provide in a worse position than he would have been in if the regulations had been so framed as to have effect only from the date on which they were made.

(2) Regulations made under this Law may make different provision as respects different classes of persons and different circumstances and make, or authorise [the Committee] to make, exceptions and conditions.

(3) Any power conferred by this Law to make any regulations shall be construed as including a power exercisable in the like manner to vary or repeal the regulations.

(4) Regulations made under this Law shall be laid before a meeting of the States as soon as may be after the making thereof, and if at that meeting or at the next subsequent meeting the States resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done thereunder or to the making by [the Committee] of any new regulations.

NOTES

In section 3, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3. paragraph 3, with effect from 1st May, 2016.

The following Regulations have been made under section 3:

*Teachers' Superannuation (Guernsey) Regulations, 2001;
Teachers' Superannuation (Guernsey) (Amendment) Regulations,
2008.*

Offences.

4. (1) Any person who by means of any false representation, statement or document which he knows to be false, or by personation or other fraudulent means, obtains or attempts to obtain, for himself or any other person, any benefit or payment under any regulations made under this Law, shall be guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both and, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding [level 2 on the uniform scale] or both.

(2) The reference in subsection (1) of this section to obtaining a benefit or payment under any regulations made under this Law includes a reference to obtaining any increase in, or any sum in respect of, such benefit or payment.

NOTE

In section 4, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Repeals, savings and transitional provision.

5. (1) The Teachers' (Superannuation) Law (Guernsey) 1948^a, and the Teachers' Superannuation (Family Benefits) (Guernsey) Law, 1967^b, are hereby repealed.

(2) Regulations under this Law may provide that the provisions of any Ordinance made under the said Law of 1967 and in force immediately before the commencement of this Law shall continue to have effect as if they were included in regulations made under this Law notwithstanding the repeal of that Law by

^a Ordres en Conseil Vol. XIII, p. 256.

^b Ordres en Conseil Vol. XXI, p. 97.

subsection (1) of this section.

(3) Any pension, allowance, gratuity or contribution payable, direction given or other thing done in respect of employment as a teacher in Guernsey before the commencement of this Law shall thereafter be deemed to be payable or to be given or done under regulations made under this Law.

(4) The provisions of the last two foregoing subsections shall not be taken as prejudicing the operation of section nineteen of the Interpretation (Guernsey) Law, 1948^c (which relates to the effect of repeals).

Interpretation.

6. (1) In this Law, where the context so permits, the expression "**teachers**" includes persons who have ceased to be teachers and such persons as may be prescribed by regulations made under this Law, being persons employed otherwise than as teachers –

- (a) in a capacity connected with education which to a substantial extent involves the control or supervision of teachers, or
- (b) in employment which involves the performance of duties in connection with the provision of education or services ancillary to education.

(2) Except where the context otherwise requires, any reference in this Law to any enactment shall be construed as a reference to that enactment as amended, extended, repealed or replaced by or under any other enactment.

Citation and commencement.

7. (1) This Law may be cited as the Superannuation (Teachers and Teachers' Families) (Guernsey) Law, 1974.

(2) This Law shall come into force on such day as shall be

^c Ordres en Conseil Vol. XIII, p. 355.

appointed in that behalf by Ordinance of the States.

NOTE

The Law was brought into force on 1st May, 1978 by the Superannuation (Teachers and Teachers' Families) (Guernsey) Law, 1974 (Commencement) Ordinance, 1978, section 1.

¹ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 13, with effect from 6th May, 2004.

² The functions, rights and liabilities of the Education Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Education Council and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 13, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.