

ACT 23
TEACHERS' PENSIONS ACT, 1955

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ACT 23
TEACHERS' PENSIONS ACT, 1955(1)

AN ACT to provide for the pensions and gratuities payable to teachers who are not public officers in public schools and public training colleges, and to certain clerical and administrative staff of educational units, public schools and public training college, and for related matters.

1. Pension Regulations

(1) Pensions and gratuities may be granted by the President in accordance with the Regulations contained in the First Schedule to teachers who have been in teaching service in Ghana.

(2) The Regulations may be amended, added to, or revoked by the President and the Regulations so made shall be laid before Parliament in accordance with clause (7) of article 11 of the Constitution.

(3) *Omitted.*³⁽²⁾

2. Law applicable to grant of pension or gratuity

(1) Subject to this Act, a pension or gratuity granted under this Act shall be computed in accordance with the law or the Regulations in force on the date of a teacher's retirement from public service.

(2) In the case of a teacher who retired from teaching service prior to the commencement of this Act and to whom a pension is grantable under paragraphs (b) to (d) of section 5, the pension shall be computed in accordance with the law and the Regulations in force on the date on which the pension is grantable.

3. Pension payable from Consolidated Fund

There shall be paid out of the Consolidated Fund the sums of money granted by way of pension or gratuity in pursuance of this Act.

4. Pensions not of right

(1) A teacher does not have an absolute right to pension or gratuity; and this Act does not affect the right of the employer to dismiss a teacher at any time in accordance with the terms of the employment.

(2) Where it is established to the satisfaction of the President that a teacher has been guilty of negligence, irregularity or misconduct, the pension or gratuity may be reduced or altogether withheld.

5. Circumstances in which pensions may be granted

(1) A pension or gratuity shall not be granted under this Act to a teacher except

(a) on retirement from the Public Services in one of the following cases:

- (i) on or after attaining the age of fifty-five years in accordance with article 199 of the Constitution;
- (ii) on compulsory retirement under article 199 of the Constitution;
- (iii) in the case of a person deemed to be a teacher, on the abolition of office;
- (iv) on medical evidence to the satisfaction of the Minister that the teacher is incapable by reason of an infirmity of mind or body of discharging the duties of office and that the infirmity is likely to be permanent; or

(b) on attaining the age of fifty years on or after the commencement of this section, or at the commencement of this section if by that date the teacher had attained the age of fifty years and in either case the teacher

- (i) was, at the age of fifty years or at the commencement of this section, a Member of the Legislative Assembly, or a Chief or was pursuing the avocation of an ordained minister of a religious body under which an Educational Unit functions or pursuing a course of training recognised by the Minister as being preparatory for such ordination,
- (ii) had completed not less than ten years' teaching service, and
- (iii) had retired from Public Service in order to become a Member of the Legislative Assembly or to become a Chief or to pursue the avocation of an ordained minister or religion,⁴⁽³⁾ or

(c) on the commencement of this section, in a case where prior to the commencement of this section the teacher

- (i) attained the age of fifty-five years while being a Member of the Legislative Assembly, or a Chief or while pursuing the avocation of an ordained minister of a religious body under which an Educational Unit functions or pursuing a course of training recognised

by the Minister as being preparatory for such ordination,

- (ii) had completed not less than ten years' teaching service, and
 - (iii) retired from teaching service in order to become a Member of the Legislative Assembly or to become a Chief or to pursue the avocation of an ordained minister of religion, but where retirement from teaching service in order to become a Member of the Legislative Assembly or a Chief took place prior to the first day of January, 1946, a pension or gratuity shall not be granted under this paragraph; or
- (d) on the commencement of this section, in a case where prior to the first day of January, 1946 the teacher
- (i) on retirement from teaching service had attained the age of fifty-five years,
 - (ii) had completed not less than ten years' teaching service, and
- has not been granted a pension by the Government in respect of the teaching service; or
- (e) on retirement from other public service on or after reaching the age at which the teacher is permitted by the law or the Regulations of the service in which the teacher is last employed to retire on pension or gratuity, in a case where a teacher has transferred to other public service.

(2) A gratuity may be granted in accordance with this Act to a female teacher who retires for the reason that she is about to marry or who retires at any time during a marriage contracted while she is in teaching service although she is not otherwise eligible under this section for the grant of a pension or gratuity.

6. Compulsory retirement

(1) A teacher shall not be retained in teaching service after the teacher has attained the age of sixty years except with the approval of the Minister.

(2) An employer shall require a teacher to retire from teaching service at any time after attaining the age of sixty years, subject to six months' notice in writing of the requirement being given to the teacher by the employer.

(3) *Repealed.*5(4)

7. Maximum pension

(1) Except in cases provided for by subsection (2), a pension granted to a teacher under this Act shall not exceed two-thirds of the highest pensionable emoluments drawn by the teacher at any time in the course of the teaching service.

(2) A teacher who has been granted a pension in respect of teaching service under this Act shall not at any time draw from public funds an amount of pension which, when added to the amount of any other pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by the teacher at any time in the course of the public service in respect of which that pension is granted.

(3) Where a teacher receives in respect of a period of service both a reduced pension and a gratuity, the amount of the pension shall be deemed for the purpose of this subsection to be four-thirds of its actual amount.

(4) For the purposes of this section an additional pension granted in respect of injury shall not be

taken into account; but where the teacher is granted an additional pension under this Act, the amount together with the remainder of the pension or pensions drawn in respect of other public service shall not exceed fifty-sixtieths of the highest pensionable emoluments at any time in the course of the public service in respect of which the pension is granted.

8. Pensions not assignable

A pension or gratuity granted under this Act

- (a) is not assignable or transferable except for the purpose of satisfying
 - (i) a debt due to the Government or to the teacher's employer immediately prior to the retirement from teaching service, or
 - (ii) an order of a Court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the teacher to whom the pension or gratuity has been granted, and
- (b) is not liable to be attached, sequestered or levied on for or in respect of a debt or claim except a debt due to the Government or to the employer immediately prior to the retirement from teaching service.

9. Pensions cease on bankruptcy

(1) Where a person to whom a pension has been granted under this Act is adjudicated bankrupt or is declared insolvent by judgment of a Court, the pension shall forthwith cease.

(2) Where a person is adjudicated bankrupt or declared insolvent,

- (a) after retirement in circumstances in which that person is eligible for pension under this Act but before the pension is granted, or
- (b) before the retirement, and that person has not obtained discharge from bankruptcy or insolvency at the date of retirement,

then, in the former case a pension eventually granted shall cease as from the date of adjudication or declaration and, in the latter case, the pension may be granted, but shall cease forthwith and not become payable.

(3) Where a pension ceases by reason of this section, the Minister may during the remainder of that person's life, or during a shorter period or periods, either continuous or discontinuous, as the Minister thinks fit, direct all or a part of the moneys to which that person would have been entitled by way of pension, had that person not become bankrupt or insolvent, to be paid to, or applied for the maintenance or benefit of all or any, to the exclusion of the other or others, of the following, that is to say, that person and any wife, child or children of that person in the proportions and manner that the Minister thinks proper, and those moneys shall be paid or applied accordingly.

(4) Moneys applied for the discharge of the debts of the person whose pension has so ceased shall, for the purposes of this section, be regarded as applied for that person's benefit.

(5) When a person whose pension has so ceased obtains discharge from bankruptcy or insolvency, the Minister may direct that the pension shall be restored as from the date of the discharge or any later date, and the pension shall be restored accordingly.

10. Pensions may cease on imprisonment

(1) Where a person to whom a pension has been granted under this Act is sentenced to a term of imprisonment by a Court for an offence, the pension or allowance shall, if the Minister so directs, cease as from the date that the Minister determines.

(2) Where a person is sentenced after retirement in circumstances in which that person is eligible for pension under this Act but before the pension is granted, then subsection (1) shall apply as respects a pension which may be granted to that person.

(3) Where a pension or allowance ceases by reason of this section the Minister may direct that all or a part of the moneys to which that person would have been entitled by way of pension had that person not been sentenced, be paid, or applied, in the same manner in all respects as prescribed in section (9) and the moneys shall be paid or applied accordingly.

(4) Where that person after conviction at any time receives a free pardon, the pension shall be restored with retrospective effect; but in determining whether arrears of the pension are payable to that person and in computing the amount, account shall be taken of the moneys paid or applied under subsection (3).

11. Gratuity where a teacher dies in the Service

(1) Where a teacher in teaching service and not serving on probation dies while in teaching service, the President may grant to the legal personal representative, or in a case where there is no legal personal representative to a person who is a relative of the teacher, a gratuity of an amount not exceeding the amount of the annual pensionable emoluments.

(2) The President may grant a gratuity of an amount not exceeding the annual pensionable emoluments to any relative or relatives of the teacher who has or have been nominated by the teacher to receive the gratuity.

(3) The nomination shall be in writing, signed by the teacher, and deposited with the Minister.

(4) In case more than one relative is nominated, the proportions in which the relatives shall share the gratuity shall be stated in the nomination paper.

(5) Where a nomination is not made, or where the person nominated or one or more of the persons nominated predeceases the teacher, the President may grant to the personal representative of the deceased teacher the gratuity or a portion of the gratuity as may not have been paid to a person nominated on account of the death.

(6) Despite subsections (1) and (2), where, if the teacher had retired at the date of death a pension might have been granted to the teacher under this Act, or might have been so granted but for the provisions of section 5, the amount of a gratuity under this section shall be an amount not exceeding

(a) the amount of the gratuity which would be payable under Regulation 19 of the Regulations in the Schedule (which gives a teacher to whom a pension is granted the option of converting part of the pension into a gratuity) assuming

(i) that the teacher had so retired after exercising that option, and

(ii) that a pension had been granted to the teacher under this Act, or

(b) the amount of the annual pensionable emoluments, whichever is the greater, and in determining the amount of the pension under subparagraph (ii) of paragraph (a) of this subsection in the case of the teacher whose public service was not wholly teaching service it shall be assumed that the whole service of the public service was teaching service.

(7) If a teacher

- (a) who transferred to teaching service from another public service, and
- (b) who had at the date of transfer been in public service for three years or more,

dies while serving on probation in teaching service, subsections (5) and (6) of this section shall apply as they would have applied if the teacher had not been serving on probation. Subsections (5) and (6) shall have effect as respects persons dying after the passing of the Teachers' Pensions (Amended) Act, 1959.6(5)

(8) For the purpose of this section, "**annual pensionable emoluments**" means the emoluments which would be taken for the purpose of computing a pension or gratuity granted to the teacher if the teacher had retired at the date of the death in the circumstances described in subparagraph (iv) of paragraph (a) of section 5.

12. Pensions to dependants

(1) Where a teacher dies while in teaching service, the President may grant, in addition to the grant made under section 11,

- (i) if the deceased teacher leaves a spouse, a pension to the spouse, while unmarried, at a rate not exceeding one-fourth of the annual pensionable emoluments of the deceased at the date of the death;
- (ii) if the deceased teacher leaves a spouse to whom a pension is granted under subparagraph (i) and a child or children, a pension in respect of each child, until the child attains the age of twenty-one years, of an amount not exceeding one-fourth of the pension prescribed under subparagraph (i);
- (iii) if the deceased teacher leaves a child or children, but does not leave a spouse or a pension is not granted to the spouse, a pension in respect of each child, until the child attains the age of twenty-one years, of double the amount prescribed by subparagraph (i);
- (iv) if the deceased teacher leaves a child or children and a spouse to whom a pension is granted under subparagraph (i) and the spouse subsequently dies, a pension in respect of each child as from the date of the death of the spouse until such child attains the age of twenty-one years, of double the amount prescribed in subparagraph (ii);
- (v) if the deceased teacher does not leave a spouse, or if no pension is granted to the spouse, and if the parent was wholly or mainly dependent on the teacher for support, a pension to the parent, while without adequate means of support, of an amount not exceeding the pension which might have been granted to the spouse of the deceased.

(2) For the purposes of subsection (1),

- (a) pensions shall not be payable under that subsection at any time in respect of more than six children; and
- (b) a pension granted to a parent under subparagraph (v) shall cease as from the date of re-marriage of that parent; and if it appears to the Minister at any time that the parent is adequately provided with other means of support, such pension shall cease as from such date as the Minister may determine;
- (c) a pension granted to a child under this section shall cease on the marriage of the child under the age of twenty-one years;
- (d) where a deceased teacher leaves more than one spouse or children born of more than one

marriage, or any persons wholly or in part dependent on the teacher for their support or it is for any other reason impracticable to grant a pension or pensions in the manner prescribed in any of the preceding provisions of this subsection, the President may grant a pension or pensions, not exceeding in the aggregate the total value of the pensions, which might be granted at any one time under those provisions to the spouses, children or dependants but the amount of any one pension shall not exceed in the case of one or more adult persons or in the case of a child the pension which might have been granted to a spouse or a child respectively under those provisions.

(3) For the purposes of this section,

“spouse” means a sole spouse;

“teaching service”, despite the definition contained in section 14, includes service which would be teaching service if the service were not on terms of employment which provide specifically for a gratuity or resettlement grant on cessation of employment or that the employment is temporary employment;

“pensionable emoluments” in a case where the definition of the expression “teaching service” is extended for the purposes of this section, means the emoluments of the deceased teacher which would have been pensionable had he been employed on pensionable terms;

“child” includes

- (a) a posthumous child,
- (b) a step-child or illegitimate child wholly or mainly dependent on the deceased teacher for support, and
- (c) an adopted child, adopted in a manner recognised by law, and dependent on the teacher.

(4) This section shall not apply in the case of the death of any teacher selected for appointment in teaching service if his “dependants”, as defined in the Workmen’s Compensation Act, 1963 (Act 17) are entitled to compensation thereunder.

13. Pensions granted before this Act

Where a pension or gratuity is granted by the Government in respect of the teaching service of a teacher which terminated between the 1st day of April, 1952, and the enactment of this Act or in respect of the death of a teacher during that period, which is in the nature of a pension or gratuity grantable under this Act at the time eligibility for pension arose, the pension or gratuity shall be deemed to have been granted and paid under this Act although a pension or gratuity or a lesser pension or gratuity would not have been payable under this Act.

14. Interpretation

(1) In this Act, unless the context otherwise requires,

“certificated teacher” includes a person to whom the Minister has issued any of the following teaching certificates:

Certificate A

Certificate A (Rural Science)

Certificate B

A Teacher's Certificate given under the provisions of paragraph (b) of rule 42 of the Education (Northern Territories) Rules

External Certificate

Honorary Certificate

Art Teachers' Certificate

Handicraft Teachers' Certificate

Recognition Certificate

A Certificate which the Director, by notice in the *Gazette*, directs shall be a teaching certificate for the purpose of this definition,

and a person to whom a degree, certificate or diploma has been awarded by some other person or body which is recognised by the Minister as an equivalent or higher teaching qualification than the above-mentioned certificates;

“educational unit” means a corporation, association of persons or religious society which has the management of one or more public schools or public training colleges, and which, except where the corporation is a local authority, is, on the advice of the Central Advisory Committee on Education, recognised by the Minister or was prior to the commencement of this Act recognised by the Minister;

“local authority” means a local authority within the meaning of the Local Government Act, 1993 (Act 462);

“Minister” means the Minister responsible for Education;

“pensionable emoluments” means salary, expatriation pay and a personal allowance but except in so far as may be provided by the Regulations does not include any other allowance or emoluments;

“public” in respect of schools and training colleges means lawfully maintained wholly or in part from funds voted by the Government;

“public service” includes teaching service and any other public service;

“other public service” means

- (a) service under the Government or a local authority, or
- (b) service under the Kumasi College of Technology, Achimota School or the University College of Ghana, or
- (c) service as a teacher in a territory forming part of the Commonwealth outside Ghana which under the law of that territory counts for computation of an annual retiring benefit, and
- (d) service that the President may determine to be other public service for the purposes of this definition.

“school” means an assembly of not less than ten pupils, assembled for the purpose of receiving regular instruction, but does not include a corporation established by an enactment, or a Sunday school, an industrial school, a training college, or any other establishment which is intended solely for the education of adults;

“teacher” means a certificated teacher but shall be deemed to include a person in a post certified by the Minister to be under an educational unit, other than a local authority, or under a public school or public training college the duties of which post are of a full-time clerical or administrative nature

connected with education;

“teaching service”

- (a) in respect of the period after the commencement of this Act, includes full-time service as a certificated teacher, otherwise than in the service of the Government, in a public school or public training college and service in a post certified by the Minister to be under an educational unit, other than a local authority, or under a public school or public training college the duties of which post are of a full-time clerical or administrative nature connected with education, and full-time service as a certified teacher in a private school recognised by the Minister, and
- (b) in respect of the period prior to the commencement of this Act, includes full-time service as a certificated teacher, otherwise than in the service of the Government, in a school or training college managed by an educational unit and service in a post certified by the Minister to be under an educational unit, other than a local authority, or under a public school or public training college the duties of which post are of a full-time clerical or administrative nature connected with education;

but service on terms of employment which provide specifically for a gratuity or resettlement grant only on cessation of employment or that the employment was temporary employment shall not constitute teaching service;

“training college” means an establishment for the training of teachers, but does not include the University College of the Gold Coast, the Kumasi College of Technology or the Achimota Teacher Training College or any department thereof.

(2) A teacher who is paid by the Government out of moneys not appearing in a personal emolument sub-head of the Estimates shall not be regarded as being in the service of the Government for the purposes of this Act.6(6)

Schedule

**REGULATIONS FOR THE GRANTING OF PENSIONS AND GRATUITIES IN RESPECT OF
TEACHING SERVICE**

[Section 1]

**PART ONE
PRELIMINARY**

1. Short title and commencement

These Regulations may be cited as the Teachers’ Pensions Regulations, 1955, and the provisions of these Regulations other than regulations 5, 9, 14, 15 and 18 shall be deemed to have come into operation on the first day of April, 1952.

2. Interpretation

In these Regulations, unless the context otherwise requires, **“qualifying service”** means public service which may be taken into account in determining whether a teacher is eligible by length of service for pension, gratuity or other allowance.

PART TWO
TEACHERS WITHOUT OTHER PUBLIC SERVICE

3. Application of Part Two

This Part shall not apply in the case of a person transferred to or from teaching service from or to other public service except for the purpose of determining whether that person would have been eligible for pension or gratuity, and the amount of pension or gratuity for which that person would have been eligible, if the services had been wholly teaching service.

4. Pensions to whom and at what rates to be granted

Subject to the Act and these Regulations a teacher who has been in teaching service for ten years or more may be granted on retirement a pension at the annual rate of one eight-hundredth part of the pensionable emoluments for each complete month of the teaching service.

5. Gratuities where length of public service does not qualify for pension

A teacher, otherwise qualified for a pension, who has not completed the minimum period of teaching service qualifying for a pension, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to the teacher under regulation 4 of these Regulations.

6. Marriage gratuities

(1) Where a female teacher having been in teaching service for not less than five years retires from teaching service for the reason that she is about to marry or retires at any time during a marriage contracted while she is in teaching service, and is not eligible for the grant of a pension or otherwise eligible for gratuity, under regulation 5 of these Regulations she may be granted, on production within six months after her retirement, or a longer period that the Minister may in any particular case allow, of satisfactory evidence of her marriage, a gratuity not exceeding one-twelfth of a month's pensionable emoluments for each complete month of teaching service.

(2) In the case of a teacher retiring from teaching service prior to the enactment of the Act the gratuity grantable under these Regulations shall not exceed one-twentieth of a year's pensionable emoluments for each complete year of teaching service.

(3) The maximum gratuity which may be granted under this regulation shall not exceed one year's pensionable emoluments.

6A. (1) Where a female teacher retires from teaching service on or after the 1st day of July, 1961 in circumstances in which she is entitled to a gratuity under regulation 6, and is re-employed in teaching service not more than one year after the retirement, the service of that teacher before retirement shall, despite her retirement, be regarded as qualifying service, but this paragraph shall not apply to a teacher who on being re-employed has attained the age of fifty years.

(2) Where a teacher to whom paragraph (1) applies has retired and been re-employed and has received a gratuity, the annual value of the pension of that teacher shall, on her final retirement from teaching service in circumstances in which she is eligible for a pension under the Act, be reduced by an amount which is calculated to ensure that that total amount received by her by way of pension and gratuity is as near as may be equal to, and in any event is not less than the amount she would have received if she had

been entitled to exercise, and had exercised, her option under regulation 19 of these Regulations.

(3) Except for the purpose of making a calculation under paragraph (2), the provisions of regulation 19 shall not apply in the case of a female teacher to whom that paragraph applies.7(7)

PART THREE TEACHERS WITH OTHER PUBLIC SERVICE

7. Application of Part Three

This Part shall apply only in the case of a teacher transferred to or from teaching service from or to other public service.

8. Rates of pension where other public service

(1) Where the aggregate public service of a teacher would have qualified the teacher, had it been wholly teaching service, for a pension under these Regulations, the teacher may on retirement from the public service, be granted in respect of the teaching service a pension at the annual rate of one eight-hundredth part of the pensionable emoluments for each complete month of the teaching service.8(8)

(2) Where the person is not in teaching service at the time of the retirement, whether that person retired from teaching service before or after the commencement of the Act, the pensionable emoluments for the purposes of the paragraph (1) shall be those which would have been taken for the purpose of computing the pension if that person had retired from the public service and been granted a pension at the date of the transfer from teaching service.

(3) Where a teacher has by reason of transfer to or from teaching service from or to other public service completed more than one period of teaching service between which has intervened a period of public service the pension or gratuity in respect of teaching service shall be the pension or gratuity calculated on the total period of teaching service and the annual pensionable emoluments enjoyed at final retirement from teaching service.

9. Gratuities where length of public service does not qualify for pension

Where a teacher to whom this Part of these Regulations applies retires from the public service but has not completed the minimum period of public service qualifying for a pension, the teacher may be granted in respect of the teaching service a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted under regulation 8 of these Regulations.9(9)

10. Marriage gratuities

A female teacher to whom this Part applies who retires for the reason that she is about to marry or retires at any time during a marriage contracted while she is in teaching service, and

- (a) if the whole of her public service had been teaching service, would have been eligible for a gratuity under regulation 6 of these Regulations, and
- (b) if she is at the date of her retirement from other public service eligible for a gratuity under the law or regulations of the public service in which she is last employed,

may, if she is not eligible for the grant of a pension or otherwise eligible for gratuity under this Part of these Regulations, be granted a gratuity which bears to the gratuity for which she would be eligible if the whole of her public service had been in teaching service the proportion which her teaching service bears

to her total public service, but the maximum gratuity which may be granted under this regulation shall not exceed one year's pensionable emoluments.

PART FOUR GENERAL

11. General rules as to qualifying service

(1) Subject to these Regulations, qualifying service is the inclusive period between the date on which a teacher begins to draw half or full salary in respect of public service and the date of leaving the public service without deduction of a period during which the teacher has been absent on leave.

(2) A period during which a teacher was not in public service shall not be taken into account as qualifying service.

(3) A period which is not qualifying service by virtue of subregulations (1) and (2) shall not be taken into account for the purpose of computing a pension under these Regulations.

(4) Despite the provisions of subregulations (2) and (3) of this regulation where prior to the enactment of the Act the Director has, prior to a teacher temporarily leaving teaching service for the purpose of carrying on work of educational value, directed under the rules in force prior to the commencement of the Act that the period in which the teacher was engaged on that work should count as qualifying service or as service on which a pension or gratuity could be computed, that period shall be so regarded under these Regulations.

12. Continuity of service

(1) Except as otherwise provided in these Regulations, only continuous service shall be taken into account as qualifying service or for the purpose of computing a pension under these Regulations, but a break in teaching service not exceeding one year unless arising from misconduct which results in the teacher being struck off the Register of Teachers kept by the Education Service shall be disregarded for the purposes of this paragraph.

(2) A teacher

- (a) who has retired from the public service without pension on account of ill-health, and has subsequently been re-employed in teaching service, or
- (b) who leaves teaching service for the purpose of becoming a Member of Parliament, to pursue the avocation of an ordained minister of religion or to become a chief and who becomes a Member of Parliament or a chief or pursues the avocation of an ordained minister of religion, and who is thereafter re-employed in teaching service without a break exceeding one year after ceasing to be that Member or chief or pursuing that avocation,

may, if the President thinks fit, be granted the pension or gratuity for which the teacher would have been eligible if a break in public service immediately prior to the re-employment had not occurred, which pension shall be in lieu of

- (i) a pension previously granted to the teacher in respect of teaching service; and
- (ii) a gratuity so granted which is required to be refunded as a condition of the application to the teacher of this regulation,

but additional to a gratuity so granted which is not required to be refunded.

(3) Where under this regulation a break in service may be disregarded that period shall not be taken

into account for the purpose of computing a pension or gratuity.

13. Leave without salary

(1) A period during which a teacher is absent from duty on leave without salary shall not be taken into account as service for the purpose of computing a pension under these Regulations unless the leave has been granted on grounds of public policy with the approval of the Minister.

(2) Where prior to the enactment of this Act the Director approved the absence of a teacher from teaching service on the ground that the absence was either to undertake a course of instruction or to undertake work of educational value, the leave of absence shall be deemed to have been granted on grounds of public policy with the approval of the Minister.

14. Emoluments to be taken for computation of pensions, etc.

(1) For the purpose of computing the amount of a teacher's pension or gratuity,

- (a) in the case of a teacher who has held the same post for a period of three years immediately preceding the date of the retirement, the annual pensionable emoluments enjoyed by the teacher at that date in respect of that post shall be taken;
- (b) in the case of a teacher who at any time during the period of three years has been transferred from one post to another, but whose pensionable emoluments have not been changed by reason of the transfer or transfers, the annual pensionable emoluments enjoyed by the teacher at the date of the retirement in respect of the then post held by the teacher shall be taken;
- (c) in the case of a teacher retired on the ground of ill-health, the annual pensionable emoluments enjoyed by the teacher at the date of the retirement in respect of the post then held by the teacher shall be taken, unless it would be more favourable to take the pensionable emoluments which would have been taken but for this regulation when the last-mentioned emoluments shall be taken;
- (d) in other cases one-third of the aggregate pensionable emoluments enjoyed by the teacher in respect of the teaching service during the three years of the teaching service immediately preceding the date of the retirement shall be taken.

(2) For the purposes of subregulation (1),

- (a) if the one-third is less than the highest annual pensionable emoluments enjoyed by the teacher at the date of any transfer within the period of three years those pensionable emoluments shall be taken;
- (b) if the one-third is less than the annual pensionable emoluments which would have been enjoyed by the teacher at the date of the retirement if the teacher had continued to hold any post from which that teacher has been transferred at any time during the period of three years, and had received all increments which, in the opinion of the Director, would have been granted, the annual pensionable emoluments which would have been so enjoyed shall be taken;
- (c) for the purpose of calculating pensionable emoluments under subregulation (1) the teacher shall, subject to regulation 15, be deemed to have been on duty on full pensionable emoluments throughout the three years.

15. Service which is not teaching service

(1) Where a period of service which would be teaching service if the teacher were not employed on terms which provide specifically for a gratuity on cessation of employment or that the employment is temporary employment is immediately followed by teaching service, one-half of that period may, with the approval of the President, be so taken into account.

(2) A break in service which may be disregarded under regulation 12 of these Regulations may likewise be disregarded in determining for the purposes of subregulation (1) of this regulation whether one period of teaching service immediately follows other service.

(3) Where one-half of a period of service which is not teaching service is taken into account under this regulation, the person shall, during that part of the period, be deemed for the purposes of regulations 6 and 18 of these Regulations to be in teaching service.

16. Service not qualifying for pension

Except as otherwise provided in these Regulations, there shall not be taken into account as teaching service

- (a) a period of teaching service while the person was under the age of eighteen years; or
- (b) a period of teaching service while the teacher was on probation or a period of service which would have been teaching service if that person were not employed on terms which provide specifically for a gratuity on cessation of employment or that the employment is temporary employment, unless without that break the service becomes teaching service, but a break of that service which may be disregarded under regulation 12 of these Regulations may likewise be disregarded in determining whether service becomes teaching service without a break under this regulation.

17. Incomplete months of teaching service

Where under these Regulations a pension is computed in two parts in relation to two separate periods of a teacher's teaching service, and the number of odd days not constituting a complete month in both periods amounts to thirty or more, those days shall for the purpose of computing the pension be regarded as one month's teaching service.

18. Teachers retiring on account of injuries

(1) Where a teacher employed in teaching service is permanently injured

- (a) in the actual discharge of duty, and
- (b) without the teacher's own default, and
- (c) on account of circumstances specifically attributable to the nature of the duty,
 - (i) the teacher may, if retirement is thereby necessitated or materially accelerated and the teacher has not completed the minimum period of public service qualifying for a pension, be granted, in lieu of a gratuity under regulation 5 or regulation 9 of these Regulations, a pension under regulation 4 or 8 of these Regulations, as if the words "for ten years or more" were omitted from regulation 4;
 - (ii) the teacher may, if so injured while in teaching service, be granted on retirement an additional pension at the annual rate of the proportion of the actual pensionable emoluments at the date of the injury appropriate to the teacher's case as shown in the following table:

where the capacity to contribute to the teacher's own support is:

slightly impaired	five-sixtieths;
impaired	ten-sixtieths;
materially impaired	fifteen-sixtieths;
totally destroyed	twenty-sixtieths.

(2) The amount of the additional pension may be reduced to an extent that the President thinks reasonable where the injury is not the sole cause of retirement.

(3) The annual value of the total pension shall not exceed fifty-sixtieths of the pensionable emoluments at the date of the injury.

(4) A person so injured while in service which would be teaching service if that person were not employed on terms which provide specifically for a gratuity or resettlement grant on cessation of employment or that the employment is temporary employment, may be granted on retirement a pension of the same amount as the additional pension which might be granted under subregulation (1) (c) (ii) of this regulation if that person were in teaching service.

(5) Regulation 19 shall not apply to an additional pension granted under subregulation (1) (c) (ii) or to a pension granted under subregulation (2) of this regulation.

(6) If a teacher proceeding by a route approved by the employer to or from the Republic at the commencement or termination of the teaching service, or of a period of leave, is permanently injured as the result of damage to the vessel, aircraft or vehicle in which the teacher is travelling or of an act of violence directed against the vessel, aircraft or vehicle and the President is satisfied that the damage or act is attributable to circumstances arising out of war in which the Republic may be engaged, the teacher shall be deemed for the purposes of this regulation to have been injured in the circumstances described in subregulation (1) of this regulation.

(7) A teacher in teaching service, within the meaning given to that expression in sub-section (2) of section 14 of the Act, who is permanently injured while travelling by air in pursuance of official instructions shall be deemed to have been injured in the circumstances detailed in paragraphs (a) and (c) of subregulation (1) of this regulation, and for the purpose of computing a pension payable under this regulation, the expression "actual pensionable emoluments" has the meaning given to the expression "pensionable emoluments" in subsection (2) of section 14 of the Act; but if paragraph (b) of subregulation (1) is also satisfied, the rates of pension prescribed in that provision shall be seven and a half-sixtieths; fifteen-sixtieths; twenty-two and a half-sixtieths and thirty-sixtieths respectively.

(8) Neither subregulation (1) (ii) nor subregulation (2) of this regulation shall apply in the case of a person who, in consequence of the injury, is entitled to compensation under the Workmen's Compensation Ordinance or any other enactment replacing that Ordinance.

19. Gratuity and reduced pension

(1) A teacher to whom a pension is granted under the Act may, at the option exercisable on or before the date of the retirement, be paid in lieu of that pension a pension at the rate of three-fourths of that pension with a gratuity equal to twelve and one half times the amount of the reduction so made in the pension.

(2) The President may, if it appears equitable in all the circumstances so to do, allow the teacher to

exercise the option or revoke an option previously exercised at any time between that date and the actual date of award of pension under the Act.

(3) In the application of this regulation to cases where the limitation prescribed by subsection (2) of section 9 of the Act operates, the words “**that pension**” means the amount of pension which the teacher might have drawn from the Consolidated Fund if the teacher had not exercised the option under this regulation.

(4) Subject to subregulation (1) of this regulation, if a teacher has exercised the option, the decision is irrevocable.

(5) Where a teacher dies after the teacher has finally retired, and has failed, owing to circumstances outside the teacher’s control, to exercise the option under this regulation, the President may grant a reduced pension and a gratuity, as if the teacher before the death had elected therefor under this regulation.

20. War service to count for pension purposes

(1) Where a teacher has served with the United Kingdom Forces in time of war, and before so serving has been employed in teaching service, the following provisions shall have effect:

- (i) During the period of the service in the United Kingdom Forces, including a period after the termination of the war (in this section referred to as “military service”), the teacher shall be deemed, for the purposes of these Regulations, to have been on leave on full salary from the post in which the teacher was last employed;
- (ii) during a period between leaving teaching service for the purpose of serving in the United Kingdom Forces and the date of commencing military service, the teacher shall, for the purposes of these Regulations, be deemed to be on leave without pay not granted on grounds of public policy, from teaching service; and during a period between the termination of the military service and the date of re-entering public service the teacher shall, be deemed to be on leave without pay from teaching service, and to have held the post in which the teacher is re-employed.

(2) For the purposes of subregulation (1),

- (a) this regulation shall not apply when either period mentioned in subregulation (2) of this regulation exceeds three months, or a longer period that the President may in a special case determine; or if the teacher fails, after serving with the United Kingdom Forces, to re-enter teaching service otherwise than in circumstances in which the teacher would be permitted to retire on pension or gratuity, the circumstances arising on or before the expiration of three months, or a longer period as determined after the termination of the military service;
 - (b) if during a period mentioned in subregulation (1) a teacher, in respect of the military service, has qualified for pension, or received emoluments in lieu of pension rights, subregulation (1) shall, as respects that period, have effect as if the words “leave without salary not granted on grounds of public policy” were substituted for the words “leave on full salary”;
 - (c) if during the military service a teacher is injured the teacher shall not for the purposes of regulation 18 be deemed to have been injured in the discharge of duty.
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Endnotes

1 (Popup - Footnote)

1. This Act was enacted as the Teachers' Pensions Ordinance, 1955 (No. 23 of 1955). It was assented to on the 9th day of September, 1955 and came into force, except for [sections 10 to 14](#) (8 to 12 of this Act) on 1st April, 1952.

2 (Popup - Footnote)

3. [Subsection \(2\)](#) is now obsolete, and subsection (3) is now unconstitutional, in view of [article 107](#) of [the Constitution](#). The subsections read:

“(2) All regulations shall have the same force and effect as if they were contained in the First Schedule to this Ordinance, and the expression ‘this Ordinance’ shall, wherever it occurs in this Ordinance, be construed as including a reference to the said Schedule.

(3) Whenever the Governor is satisfied that it is equitable that any regulation made under this section should have a retrospective effect in order to confer a benefit upon or remove a disability attaching to any person, that regulation may be given retrospective effect for that purpose:

Provided that no such regulation shall have retrospective effect unless it has received the prior approval of the Legislative Assembly signified by resolution.”

3 (Popup - Footnote)

4. Amended by [section 4](#) of the Teachers' Pensions (Amended) Act, 1959 (No. 44 of 1959). The section also provided that a pension or gratuity may be paid under Part Three of [the Schedule](#) where the office in which a teacher who transferred to another public service is last employed, is not a pensionable office.

4 (Popup - Footnote)

5. By the Teachers' Pensions (Amended) Act, 1963 (Act 198).

5 (Popup - Footnote)

6. Inserted as subsection (2A) by section 5 of the Teachers' Pensions (Amended) Act, 1959 (Act 44 of 1959).

6 (Popup - Footnote)

6. Amended by [section 2](#) of the Teachers' Pensions (Amended) Act 1959 (No. 44 of 1959).

The section also provided that [section 6](#) of the Act shall not apply to a teacher in a private school, that is a school other than a public school.

7 (Popup - Footnote)

7. Amended by [the Schedule](#) to the Teachers Pensions (Amended) Act, 1959 (No. 44 of 1959).

8 (Popup - Footnote)

8. Amended by [the Schedule](#) to the Teachers Pensions (Amended) Act, 1959 (No. 44 of 1959).

9 (Popup - Footnote)

9. Amended by the Teachers Pensions (Amended) Act, 1959 (No. 44 of 1959).

10. Amended by [the Schedule](#) to the Teachers' Pensions (Amended) Act, 1959 (No 44 of 1959).