STATUTORY RULES OF NORTHERN IRELAND

2010 No. 136

EDUCATION

The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 2010

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The Department of Education makes the following Regulations in exercise of the powers conferred by Articles 11(1)(**a**), (2), (3), (3A)(**b**) and paragraphs 1, 3, 4, 5, 6, 8, 11 and 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(**c**).

In accordance with Article 11(5) of that Order consultation has taken place with representatives of local education authorities and of teachers and with representatives of other persons likely to be affected.

In accordance with Article 11(1) of that Order these Regulations are made with the consent of the Department of Finance and Personnel(**d**).

(**a**) As amended by S.I. 1990/1509 (N.I. 13) Article 13(1)
(**b**) As amended by S.I 1990/1509 (N.I. 13) Article 6(1)
(**c**) S.I. 1972/1073 (N.I. 10)
(**d**) Formerly Department of Finance: see S.I. 1982/338 (N.I. 6) Article 3

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 2010 and shall come into operation on 30th April 2010.

Interpretation

2.—(1) In these Regulations—

(a) any reference to, or to things done or falling to be done under or for the purposes of, any provision of these Regulations is, if and so far as the nature of the reference permits, to be construed as including, in relation to circumstances or purposes in relation to which the corresponding provision in the 1991 Regulations has or had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision; and

(b) any expression which is defined in the Superannuation Regulations has the same meaning as in those Regulations.

(2) In these Regulations –

"the 1971 Act" means the Pensions (Increase) Act (Northern Ireland) 1971(**a**);

"the 1989 Order" means the Education Reform (Northern Ireland) Order 1989(**b**);

"the 1991 Regulations" means the Teachers (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(**c**)**;**

"the 1996 Order" means the Employment Rights (Northern Ireland) Order 1996(**d**);

"annual compensation" without further qualification means annual compensation payable under regulation 7, regulation 12 or both;

"the appropriate person" in relation to a teacher means—

(a) in the case of a teacher who has ceased to be employed at a controlled school, the appropriate board;

(b) in the case of a teacher who has ceased to be employed at a Catholic maintained school, the appropriate board;

(c) in the case of a teacher who has ceased to be employed at a maintained primary school, other than a Catholic maintained primary school, the appropriate board or in the case of a voluntary primary school, which is not a maintained school, the manager; and

(d) in any other case, the person by whom he was formerly employed.

"assumed retirement lump sum" and "assumed retirement pension" are to be construed in accordance with regulation 12(5);

"board" means an education and library board;

"Catholic maintained school" has the meaning assigned to it by Article 141(3) of the 1989 Order;

"compensating authority" is to be construed in accordance with regulation 20;

"compensation" without further qualification means compensation payable under these Regulations;

(**a**) 1971 c.35 (NI)
(**b**) S.I. 1989/ 2406 (N.I. 20)
(**c**) S.R. 1991 No. 132, as amended by SR 2002 No. 393
(**d**) S.I 1996/1919 (N.I. 16)

"the Council" means the Council for Catholic Maintained Schools;

"credited teacher" means an eligible teacher who has been credited with a period of service under regulation 11, and "credited period" means the period with which he has been credited;

"deciding authority" is to be construed in accordance with regulation 11;

"delegated budget," in relation to a school, has the same meaning as in Part V of the 1989 Order;

"Department" means—

(a) in the case of a person who, immediately before the material date, was employed by a body which either directly or indirectly receives funds from the Department for Employment and Learning, the Department for Employment and Learning;

(b) in the case of a person who, immediately before the material date, was employed by the Juvenile Justice Board, the Secretary of State;

(c) in the case of a person who, immediately before the material date, was employed by a body which either directly or indirectly received funds from the Department of Culture, Arts and Leisure, the Department of Culture, Arts and Leisure;

(d) in the case of all other persons, the Department of Education;

"effective service" is to be construed in accordance with regulation 11(2);

"eligible teacher" is to be construed in accordance with regulation 4(6);

"employing authority" in relation to an eligible teacher, means a board, the Council, a Board of Governors of a voluntary grammar school or grant maintained integrated school or any other maintained school which is not a Catholic maintained school or the governing body of an institution of further education or other person or body by whom he is employed before the material date;

"former employment" in relation to an eligible teacher or a credited teacher, means relevant employment in relation to which the conditions in regulation 4(7) are satisfied, and "former employer" means the person who employed him in that employment;

"grant maintained integrated school" has the meaning assigned to it by Article 65 (3) of the Education Reform (Northern Ireland) Order 1989;

"institution of further education" has the meaning assigned to it by Article 2(2) of the Further Education (Northern Ireland) Order 1997(**a**);

"lump sum compensation" without further qualification means lump sum compensation payable under regulation 7, regulation 12 or both;

"material date", in relation to an eligible teacher or a credited teacher, means the date on which he ceased to hold his former employment;

"new employment" has the meaning given in regulation 18(1);

"redundancy payment", in relation to a person's former employment, means the aggregate of the amounts paid in respect of its cessation by way of –

(a) the redundancy payment to which he became entitled under Part XII of the 1996 Order,

(b) any increase paid by the former employer before 18th August 1986 so that the payment, as increased, corresponded to that which would have been payable had the Redundancy Payments (Local Government etc) (Modification) (Northern Ireland) Order 1986(**b**) been in operation on the material date, and

(c) any compensation which was paid by the former employer under regulation 5 or was of an amount corresponding to that which would have been payable under that regulation if it had been in operation on the material date;

"relevant employment" is to be construed in accordance with regulation 3;

(**a**) S.I. 1997/1772 (N.I. 15)
(**b**) S.R. 1986 No. 206

"the Superannuation Regulations" means the Teachers' Superannuation Regulations (Northern Ireland) 1998(a);"

"a week's pay" shall be calculated in accordance with Chapter IV of Part I of the 1996 Order but, for the purposes of these Regulations, the calculation date shall be the date that the person in question ceased to hold the relevant employment in question and that Chapter shall be applied as if Article 23(1) (c) of that Order had been repealed.

(3) Where these Regulations require anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

(4) In these Regulations

—controlled school;

—grammar school;

—maintained school;

—nursery school;

—primary school;

—secondary school;

—special school; and

—voluntary school,

have the meanings respectively assigned to them by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(**b**).

Relevant employment

3.—(1) Relevant employment is employment falling within Schedule 2 to the Superannuation Regulations.

(2) For the purposes of these Regulations—

(a) Employment category A comprises relevant employment—

(i) at a controlled or maintained secondary school (other than a voluntary grammar school), or a controlled grammar school, which for the time being had a delegated budget,

(ii) at a maintained primary school (other than a Catholic maintained or grant-maintained integrated school), or

(iii) at any school formerly within category B or category D which has for the time being been given a delegated budget;

(b) employment category B comprises relevant employment at a controlled or Catholic maintained primary or nursery school which for the time being did not have a delegated budget;

(c) employment category C comprises relevant employment—

(i) at a voluntary primary school which is not a maintained school and which for the time being did not have a delegated budget,

(ii) at a voluntary grammar school,

(iii) at an institution of further education, or

(iv) at a grant maintained integrated school;

(d) employment category D comprises relevant employment—

(i) at a controlled or Catholic maintained special school,

(**a**) S.R. 1998 No.333, as amended by S.R. 2001, No. 149, S.R. 2003 No. 147, S.R. 2005 No. 181, S.R. 2005 No. 495, S.R. 2006 No. 163, S.R. 2006 No. 366, S.R. 2007 No. 137 and S.R. 2008 No. 50

(**b**) S.I 1986/594 (N.I. 3)

(ii) at a voluntary maintained special school,

which did not have a delegated budget;

(e) employment category E comprises relevant employment at any school for which a delegated budget had been suspended under Article 53 (1) of the 1989 Order; and

(f) employment category F comprises relevant employment not falling within categories A to E.

Persons to whom the Regulations apply

4.—(1) Part 2 applies to any person who has become entitled to a redundancy payment under Part XII of the 1996 Order in consequence of his having ceased to be employed in relevant employment.

(2) Part 3 applies to any person who has ceased on or after 30th April 2010 to be employed in relevant employment by reason of his redundancy or in the interests of the efficient discharge of his employer's functions.

(3) Part 4 applies as stated in the regulations in that Part.

(4) Parts 5 and 6 apply to eligible teachers.

(5) Part 7 applies to eligible teachers and persons to whom Part 4 applies.

(6) An eligible teacher is a person

(a) who immediately before the material date was employed in relevant employment;

(b) who has not received or is not to receive compensation under Part 3 (discretionary compensation for termination); and

(c) in relation to whom the conditions in paragraph (7) are satisfied.

(7) The conditions are that—

(a) when his employment was terminated he had attained the age of 55 but had not attained the age of 65;

(b) (i) he then had completed a qualifying period, within the meaning of regulation E3 of the Superannuation Regulations, of at least 2 years, or

(ii) in the case of a person who was in full-time employment, he would have completed such a qualifying period if he had not made an election under regulation B1(4) or B4 of the Superannuation Regulations;

(c) he did not become entitled to payment of retirement benefits under Case C in regulation E4(4) of those Regulations (incapacity);

(d) the former employer has notified the Department in writing that—

(i) the employment was terminated by reason of his redundancy or in the interests of the efficient discharge of the employer's functions, and

(ii) in the case of a person who has not attained the normal pension age the employer, with the approval of the compensating authority, has agreed that he should be entitled to retirement benefits under Case F in regulation E4(5) of the Superannuation Regulations (premature retirement); and

(e) in respect of a person whose employment was terminated in the interests of the efficient discharge of the employer's functions, the Department approves the reason for that termination.

PART 2

Discretionary compensation for redundancy

5. Subject to Article 58 of the 1989 Order (determination by Boards of Governors as to making by boards of certain payments in respect of dismissal, etc.), the appropriate person may pay to a person to whom this Part applies compensation which does not exceed the difference between—

(a) the redundancy payment to which he is entitled under Part XII of the 1996 Order; and

(b) the redundancy payment to which he would have been so entitled if Article 23(1) (c) of the 1996 Order (weekly pay in excess of specified limit to be disregarded in calculating redundancy payments) had been repealed.

PART 3

Discretionary compensation for termination after 30th April 2010

6.—(1) Subject to Article 58 of the 1989 Order (determination by Boards of Governors as to making by boards of certain payments in respect of dismissal, etc.), the appropriate person may pay to a person to whom this Part applies compensation which does not exceed A-B where—

A is a sum equivalent to 104 weeks' pay, and

B is the aggregate of

(a) any redundancy payment to which the person is entitled under Part XII of the 1996 Order; and

(b) any compensation which is paid to him under Part 2 (discretionary compensation for redundancy).

PART 4

Mandatory compensation for premature retirement

Mandatory compensation

7.—(1) A person who is entitled to retirement benefits under Case F in regulation E4(7) of the Superannuation Regulations (premature retirement) and to whom regulations E5(14) and E6(10) of those Regulations apply (actuarial reductions on premature retirement) is entitled to lump sum compensation and to annual compensation under this regulation.

(2) The amount of the lump sum compensation under this regulation is the amount, if any, calculated in accordance with regulation E6(10) of the Superannuation Regulations by which his retirement lump sum or additional retirement lump sum under regulation E15(4) of those Regulations (as the case may be) is reduced.

(3) Subject to paragraph (4) the rate of the annual compensation under this regulation is the difference between the rate of his retirement pension or additional retirement pension under regulation E15(4) of the Superannuation Regulations (as the case may be) if calculated in accordance with regulation E5(14) of those Regulations and the rate if it is not.

(4) When a person in receipt of annual compensation under this regulation attains state pensionable age and the annual rate of his retirement pension under the Superannuation Regulations is increased by virtue of the operation of regulation E1 or E5(14) of those Regulations (guaranteed minimum pension) then from the date that he attained state pensionable age his annual compensation under this regulation shall be reduced by the difference between the annual rate of his retirement pension as calculated with the operation of regulation E1 or E5(14) of the Superannuation Regulations and the annual rate as calculated without.

Abatement of annual compensation during further employment

8.—(1) This regulation applies where the amount of retirement pension paid to a person is reduced under regulation E14 of the Superannuation Regulations.

(2) Where this regulation applies—

(a) where by virtue of regulation E14(3)(a) of the Superannuation Regulations no retirement pension is paid during a tax year, no compensation shall be paid in that tax year; and

(b) in any other case the compensation to which the person is entitled under regulation 7 in any tax year shall be reduced if necessary so as to secure that the compensation paid during that tax year does not exceed

$$A \times \frac{R}{S}$$

where—

A has the same meaning as in regulation E14 of the Superannuation Regulations,

R is the full annual rate of the person's compensation under regulation 7 during the tax year in question as increased under the Pensions (Increase) Act (Northern Ireland) 1971(**a**), and

S is the total of—

(c) the full annual rate of the person's retirement pension;

(d) the full annual rate of compensation payable under regulation 7; and

(e) the full annual rate of all compensation payable under regulation 12;

for the tax year in question as increased under the Pensions (Increase) Act (Northern Ireland) 1971.

(3) Where compensation falls to be reduced under paragraph (2) (b) in any tax year the compensating authority shall pay the compensation in accordance with regulation 25 at the rate which is appropriate without taking account of the reduction until the amount to which the compensation is to be reduced (on the assumption that the person will remain in employment at the same salary for the remainder of the tax year) has been paid.

(4) Once the appropriate amount of compensation has been paid as mentioned in paragraph (3) no further payment shall be made during that tax year unless the person ceases to be in the employment or is in employment at a lower salary in which case the compensating authority shall pay compensation during the remainder of the tax year to the person of such amount and at such times as is necessary in order to secure the result described in paragraph (2).

Supplementary death grants

9. Where regulation E21 of the Superannuation Regulations ("regulation E21") applies and by virtue of regulation E21(2), (3) or (3A) a supplementary death grant equal to the deficiency referred to in those paragraphs multiplied by the appropriate factor may be paid under regulation E21, a supplementary death grant may be paid by the compensating authority to the person entitled under regulation E21 equal to the deficiency referred to in regulation E21(2) or (3) less the amount of supplementary death grant that may be paid under regulation E21.

(**a**) 1971 c.35 (NI)

Entitlement to short-term family benefits

10.—(1) This regulation applies where the amount of a person's short-term pension under regulation E24 of the Superannuation Regulations is reduced by virtue of regulation E25(4) of those Regulations.

(2) Where this regulation applies the person to whom the short-term pension is payable under regulation E24 is entitled to compensation, for each month during which the short-term compensation is payable, which is equal to the amount by which the short-term pension is reduced for that month.

PART 5

Discretionary compensation for premature retirement

Discretion to credit an additional period of service

11.—(1) Subject to the approval of the compensating authority, the deciding authority, ascertained from the first and second columns of the table in Part I of Schedule 1, may, within 6 months after the material date, credit an eligible teacher (including an eligible teacher who has since died) with a period of service not exceeding the shortest of—

(a) the period by which his effective service falls short of 40 years;

(b) the period beginning on the day following the material date and ending with his 65th birthday, less, where paragraph 1 of Part 3 of Schedule 1 applies, any period required by paragraph 2 of that Part to be deducted;

(c) the length of his effective service; and

(d) the period specified in Part 2 of Schedule 1.

(2) An eligible teacher's effective service comprises—

(a) any period which he is entitled to count as reckonable service; and

(b) if his former employment was not pensionable employment, any period which he would have been entitled so to count if it had been.

Compensation payable to credited teacher

12.—(1) A credited teacher is entitled to lump sum compensation and to annual compensation.

(2) Subject to regulation 16 (termination payments), the amount of the lump sum compensation is A-B, where—

A is the retirement lump sum to which he would be entitled on the hypothesis specified in paragraph (4), and

B is the assumed retirement lump sum.

(3) Subject to paragraph (6) and to regulations 17 to 19, the rate of the annual compensation is C-D, where—

C is the annual rate of the retirement pension to which he would be entitled on the hypothesis specified in paragraph (4), and

D is the annual rate of the assumed retirement pension.

(4) The hypothesis is that—

(a) all his effective service counts as reckonable service; and

(b) any actuarial reduction required by regulation E5(14) or E6(10) of the Superannuation Regulations is disregarded.

(5) The assumed retirement lump sum and the assumed retirement pension are—

(a) where all his effective service counts as reckonable service, those to which he is entitled disregarding any actuarial reduction required by regulation E5(14) or E6(10) of the Superannuation Regulations; and

(b) in any other case, those to which he would have been entitled if all his effective service had counted as reckonable service disregarding any actuarial reduction required by regulation E5(14) or E6(10) of the Superannuation Regulations.

(6) Where—

(a) an occupational pension is being paid in respect of service before the material date; and

(b) the aggregate of his effective service, any period in respect of which he is entitled to the occupational pension, and the credited period would exceed 40 years; and

(c) the aggregate of the annual rates for the time being of the occupational pension and of the annual compensation under this regulation would exceed the relevant amount defined in paragraph (8);

the rate of the annual compensation under this regulation is to be reduced so that the relevant amount is not exceeded.

(7) For the purposes of paragraph (6)—

(a) the annual rate at any time of the annual compensation under this regulation and of any other official pension within the meaning of the 1971 Act are their annual rates as increased under that Act; and

(b) the annual rate at any time of an occupational pension which is not such an official pension is its annual rate as increased under any contract, scheme or other arrangement.

(8) The relevant amount mentioned in paragraph (6) is E+ F, where—

E is the amount specified in paragraph (9), and

F is any amount by which E would have been increased if it had been the annual rate of an official pension within the meaning of the 1971 Act beginning, and first qualifying for increases under that Act, on the day after the material date.

(9) The amount constituting E is—

$$\frac{G}{80} \times (40 - H)$$

where—

G is his average salary, and

H is the length in years of his effective service.

(10) For the purposes of this regulation an occupational pension is a pension by way of periodical payments, other than a retirement pension under the Superannuation Regulations or annual compensation payable under regulation 7, which is payable under an occupational pension scheme; and for the purposes of paragraph (9) regulation E31 of the Superannuation Regulations (average salary) is in every case to be construed as if the former employment were pensionable employment.

Short-term compensation on death

13.—(1) This regulation applies where a credited teacher dies and a short-term pension—

(a) becomes payable under regulation E24 of the Superannuation Regulations; or

(b) would have become so payable but for an election under regulation B1(4) or B4 of those Regulations.

(2) Subject to paragraph (3) and to regulation 17 (periodic payments), the rate of the short-term compensation is the rate at which the deceased's annual compensation payable under regulation 12 would have been payable immediately before his death if any reduction under regulation 16, 18 or 19(3) had been left out of account.

(3) If the deceased died in new employment which was pensionable employment, he is for the purposes of paragraph (2) to be taken to have ceased to be in that employment immediately before his death.

(4) If the rate calculated in accordance with paragraph (2) is less than that of long-term compensation to which there is a prospective entitlement under regulation 14, the rate of the short-term compensation is the same as that of the long-term compensation.

Long-term compensation on death

14.—(1) This regulation applies where a credited teacher dies and one or more long-term pensions—

(a) become payable under regulation E26 of the Superannuation Regulations; or

(b) would have become so payable but for an election under regulation B1(4) or B4 of those Regulations.

(2) Subject to regulation 15 (duration), where this regulation applies long-term compensation is to be paid to, or as the case may be for the benefit of, every person who became or would have become entitled to payment of a long-term pension.

(3) Subject to regulation 17 (periodic payments), the rate of the long-term compensation payable to a person who is not a child ("adult compensation") is one half of the notional annual compensation rate.

(4) Subject to regulation 17, the rate of the long-term compensation payable to or for the benefit of a child or children ("children's compensation") is the appropriate fraction of the notional annual compensation rate.

(5) While adult compensation is payable, then

(a) while children's compensation is payable to or for the benefit of two or more children, the appropriate fraction is one half; and

(b) while it is payable to or for the benefit of one child, the appropriate fraction is one quarter.

(6) If adult compensation did not become payable, or has ceased to be payable, then—

(a) while children's compensation is payable to or for the benefit of two or more children, the appropriate fraction is two thirds; and

(b) while it is payable to or for the benefit of one child, the appropriate fraction is one third.

(7) Subject to paragraph (8), the notional annual compensation rate is the rate at which the deceased's annual compensation would have been payable under regulation 12 immediately before his death if there had been left out of account and any reduction under regulation 16, 18 or 19(7).

(8) If the deceased died in new employment which was pensionable employment, he is for the purposes of paragraph (7) to be taken to have ceased to be in that employment immediately before his death.

Duration of compensation on death

15.—(1) Subject to paragraphs (2) and (5), a person's short-term compensation under regulation 13 is payable from the day after that of the death, and the duration of the short-term compensation payable shall be ascertained from the table below.

Table 1

Category	*Person entitled to short-term compensation*	*Duration of compensation (months)*
1.	Spouse, civil partner, surviving nominated partner or nominated beneficiary	3

2.	One child or more where adult compensation is payable	3
3.	One child or more where no adult compensation is payable	6

In the table above "adult compensation" means short-term compensation payable to a spouse, civil partner, surviving nominated partner or nominated beneficiary.

(2) Unless the compensating authority determines otherwise in the particular case, long-term adult compensation—

(a) is not payable if, at the date of the deceased's death, the person to whom it would (apart from this sub-paragraph) have been payable is living with someone as if they were husband and wife or as if they were civil partners, and

(b) ceases to be payable when the person to whom it was payable marries, forms a civil partnership or begins to live with someone as if they were husband and wife or as if they were civil partners.

(3) But paragraph (4) does not apply to any long-term adult compensation payable following the death of a person who was in pensionable employment after 31st March 2007 or who would have been in such employment after that date but for an election under regulation B4 of the Superannuation Regulations.

(4) Short-term or long-term compensation payable to or for the benefit of a child ceases to be payable when he ceases to be a child.

(5) For the purposes of this regulation, two people of the same sex are to be regarded as living together as if they were civil partners if they would be regarded as living together as husband and wife if they were not of the same sex.

PART 6

ADJUSTMENTS

Termination payments

16.—(1) This regulation applies to a credited teacher who receives a termination payment.

(2) A termination payment is the aggregate of any lump sum payments made to him by his former employer which—

(a) are made in consequence of, or as compensation for, the loss of his former employment;

(b) are made in pursuance of any contract or arrangement or any provision contained in, or made under, any enactment, whenever made or enacted; and

(c) are not made by way of compensation under regulation 7 or 12 or by way of an excepted payment.

(3) The excepted payments are—

(a) a redundancy payment in respect of the cessation of his former employment, disregarding any reduction under the Contracts of Employment and Redundancy Payments (Pensions) Regulations (Northern Ireland)1965(**a**);

(b) so much of any payment in lieu of notice of termination of that employment as does not exceed the remuneration he would, but for its termination, have received for the three months following the material date; and

(c) compensation paid under regulation 5.

(**a**) S.R. & O 1965 No. 246

(4) If his lump sum compensation under regulation 12 would exceed the termination payment, it is to be reduced by the amount of the termination payment.

(5) If his lump sum compensation under regulation 12 would equal the termination payment, it is not to be paid.

(6) If his lump sum compensation under regulation 12 would be less than the termination payment—

(a) it is not to be paid; and

(b) his annual compensation under regulation 12 is to be reduced by the difference.

(7) If lump sum compensation was paid under regulation 12 before the termination payment became payable, his annual compensation under regulation 12 is to be reduced by the amount of the termination payment.

(8) Reductions of annual compensation payable under regulation 12 under paragraphs (6)(b) and (7) are reductions of the total amount payable, and accordingly payment is to be suspended until the full reduction has been achieved.

Periodic payments

17.—(1) This regulation applies where—

(a) relevant periodic payments are payable to a credited teacher or to a person to whom compensation is payable under regulation 13 (short-term compensation on death) or 14 (long-term compensation on death).

(2) Relevant periodic payments are payments made by the credited teacher's former employer which—

(a) are in respect neither of a lump sum nor of a return of contributions;

(b) are made as mentioned in regulation 16(2); and

(c) are not made under regulation 10 (short-term family benefits).

(3) If the relevant periodic payments in respect of any period equal or exceed the annual or other compensation that would be payable in respect of that period, excluding any compensation paid under regulation 7 or 10, the compensation is not to be paid.

(4) If the relevant periodic payments in respect of any period are less than the compensation referred to in paragraph (3) that compensation is to be reduced by the amount of those payments.

New employment

18.—(1) This regulation applies while a credited teacher is in employment falling within regulation E14(1)(a) or (b) ("new employment"); but if he is concurrently both in employment falling within regulation E14(1)(a) and in other new employment it applies only in respect of the former.

(2) Where this regulation applies—

(a) if the amount of the person's salary in the employment during a tax year equals or exceeds (B+C-D) no compensation under regulation 12 shall be paid in that tax year; and

(b) in any other case the compensation to which the person is entitled under regulation 12 in any tax year shall be reduced if necessary so as to secure that the compensation paid during that tax year does not exceed

$$A \times \frac{T}{U}$$

where—

A, B, C and D are the same as in regulation E14(3);

T is the full annual rate of the person's compensation under regulation 12 as increased under the 1971 Act; and

U is the total of—

(i) the full annual rate of the person's assumed retirement pension,

(ii) the full annual rate of compensation payable under regulation 7, and

(iii) the full annual rate of all compensation payable under regulation 12,

for the tax year in question as increased under the 1971 Act (or, if appropriate, in the case of the assumed retirement pension, as it would be increased under that Act).

(3) Regulation 8(3) and (4) shall apply to the payment of compensation under regulation 12 which has been reduced under paragraph (2) (taking the reference in regulation 8(3) to paragraph (2)(b) as a reference to paragraph (2)(b) and the reference in regulation 8(4) to paragraph (2) as a reference to paragraph (2)).

(4) For the purposes of paragraph (3)—

(a) regulation E14(3) is in every case to be construed as if the former employment were pensionable employment; and

(b) if the credited teacher has more than one entitlement to annual compensation payable under regulation 12, T comprises his total annual compensation payable under regulation 12 but each component is to be reduced under paragraph (3)(b) only in the proportion which it bears to that total.

(5) References in this regulation to regulation E14 are references to regulation E14 of the Superannuation Regulations.

Cessation of new employment

19.—(1) This regulation applies where—

(a) a credited teacher has ceased to be in new employment, other than employment in comparable British service; and

(b) the condition in paragraph (2) is satisfied.

(2) The condition is that A+B+(C-D)+E exceeds F, where—

A is his effective service,

B is any period, after the material date and before the earlier of the cessation of the new employment and his 65th birthday, which he is entitled, or would have been entitled if the new employment had been pensionable employment, to count as reckonable service,

C is the credited period,

D is any period by reference to which a previous reduction was calculated under paragraph (3),

E is any period of additional service, or increase in his period of service, falling within paragraph 1 of Part 3 of Schedule 1, and

F is what his effective reckonable service would be on the assumption that his former employment was pensionable employment and continued until his 65th birthday.

(3) The full rate of his annual compensation payable under regulation 12 is to be reduced by—

$$\frac{G \times H}{80}$$

where—

G is whichever is the shortest of B, or (C-D), or the excess of A+ B+ (C-D)+ E over F, and

H is the smaller of his average salary in his former employment and the amount specified in paragraph (4).

(4) The amount is—

$$J - \frac{J \times K}{K + 100}$$

where—

J is his average salary in his new employment, and

K is the amount by which an official pension within the meaning of the 1971 Act would, by the day after the cessation of the new employment, have been increased if it had begun, and first qualified for increases under that Act, on the day after the material date and had then been payable at an annual rate of £100.

(5) For the purposes of paragraph (3) the full rate of his annual compensation payable under regulation 12 is the rate at which it would be payable if no account were taken of any suspension or reduction under regulation 16 (termination payments) or 17 (periodic payments), and any reduction required by a previous application of this regulation.

(6) For the purposes of paragraphs (3) and (4) regulation E31 of the Superannuation Regulations (average salary) is in every case to be construed as if the former employment and the new employment were pensionable employment.

(7) The total amount of annual compensation payable under regulation 12 is to be reduced by three times the reduction under paragraph (3) in its full rate, and payment is to be suspended until the reduction required by this paragraph has been achieved.

PART 7

MISCELLANEOUS AND SUPPLEMENTAL

Liability for compensation

20.—(1) Subject to paragraph (3), the cost of compensation to which a person is entitled under Parts 4 and 5 is to be met by the compensating authority.

(2) Subject to paragraph (4) the compensating authority is to be ascertained from the first and third columns of the table in Part I of Schedule 1.

(3) The compensating authority may require the deciding authority to pay to it a sum equal to the actuarial value of the total compensation payable.

(4) If in consequence of any statutory provision, amalgamation, merger or other arrangement the compensating authority becomes part of another body (the "successor body") and ceases to be a separate body, the successor body becomes the compensating authority.

Arrangements for payment

21.—(1) A compensating authority may—

(a) itself pay any compensation for which it is liable under regulation 20; or

(b) arrange for the compensation to be paid by any suitable person and for its reimbursement by the authority.

(2) Arrangements for reimbursement shall provide for—

(a) a single payment by the authority of a sum equal to the actuarial value of the total compensation payable; or

(b) with the approval of the Department of Education, for the payment of such a sum, by not more than five annual instalments.

Declaration where lump sum payments are made

22.—(1) The compensating authority may, before paying any lump sum under regulation 7, require the person to whom the payment is to be made to provide a declaration as specified in paragraph (2) by a date determined by the compensating authority.

(2) The declaration is a declaration, in a form specified by the Department, signed by that person, to the effect that paragraph 3A of Schedule 29 to the Finance Act 2004(**a**) does not apply.

(3) Where no such declaration is received by the compensating authority by the date referred to in paragraph (1) the compensating authority may, in place of the lump sum, pay additional annual compensation representing the value of the lump sum.

(4) The amount of additional compensation referred to in paragraph (3) shall be determined by the compensating authority on the same basis as an additional pension is determined by the Department pursuant to regulation H6A of the Superannuation Regulations.

Notification

23.—(1) As soon as is reasonably practicable after—

(a) an eligible teacher has been credited with a period of service under regulation 11;

(b) a credited teacher has died;

(c) a person becomes entitled to compensation under regulation 7; or

(d) any adjustment had been made under regulation 8 or Part 6;

the compensating authority shall give a written notification to every person to whom compensation became payable or whose compensation is affected.

(2) The notification is to state—

(a) where paragraph (1)(a) to (c) applies, what compensation is payable; and

(b) where paragraph (1)(d) applies, what adjustment has been made;

and how the compensation or adjustment has been calculated.

Supply of information

24.—(1) A credited teacher or a person entitled to compensation under regulation 7 is, within one month after entering or leaving a new employment, to notify the compensating authority in writing that he has done so.

(2) A person to whom compensation is payable is to provide the compensating authority with such information, and to produce such documents, as the authority may reasonably require for the purposes of its functions under these Regulations.

Payment of compensation

25.—(1) Compensation, other than lump sum compensation, is to be paid in arrears—

(a) at intervals of one month; or

(b) at such longer intervals as may be agreed between the compensating authority and the recipient.

(**a**) 2004 c.12, paragraph 3A of Schedule 29 to the Finance Act 2004 was inserted by section 159 of the Finance Act 2006 (c.25)

(2) Where compensation ceases to be payable before the next date on which a payment would be due, a proportionate payment is to be made for the period ending on the date of cessation.

(3) A proportionate payment is a payment of—

$$\left(\frac{A}{12}\times B\right)+\left(\frac{A}{12}\times\frac{C}{D}\right)$$

where—

A is the annual rate of the compensation,

B is the number of complete months, if any, in the period,

C is the number of days remaining in the period after deducting B, and

D is the number of days in the month in which the period ended.

(4) If a person entitled to payment of compensation has not attained the age of 18, or is incapable by reason of infirmity of mind or body of managing his affairs, the compensating authority may—

(a) pay it to any person having the care of the person entitled; or

(b) apply it for the benefit of the person entitled or his dependants.

Compensation not assignable

26.—(1) Any assignment of or charge on, or agreement to assign or charge, any compensation payable under these Regulations is void.

(2) On the bankruptcy of a person entitled to such compensation no part of the compensation shall pass to any trustee or other person acting on behalf of the creditors, except in accordance with an income payments order made by a court under Article 283 of the Insolvency (Northern Ireland) Order 1989(**a**).

Modified application in relation to persons entitled to admitted service benefits

27. In relation to a person with admitted service these Regulations have effect with the modifications set out in Schedule 2.

Revocation and transitional provisions

28.—(1) The following Regulations are revoked—

(a) the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991;

(b) the Teachers' (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations (Northern Ireland) 2002;

(c) the Teachers' Superannuation (Amendment) (No.2) Regulations (Northern Ireland) 2005, regulations 5 to 7;

(d) the Teachers' Pensions etc (Reform Amendments) Regulations (Northern Ireland) 2007, regulation 2(2) and Schedule 2.

(**a**) S.I. 1989/2405 (N.I.19)

(2) Where a period of time specified in, or applying by virtue of, a provision of the 1991 Regulations is current at the commencement of these Regulations, these Regulations have effect as if the corresponding provision of these Regulations had been in operation when that period began to run.

Sealed with the Official Seal of the Department of Education on 31st March 2010



Eugene Rooney
A senior officer of the
Department of Education

The Department of Finance and Personnel hereby consents to the foregoing Regulations
Sealed with the Official Seal of the Department of Finance and Personnel on 31st March 2010



Adrian Arbuthnot
A senior officer of the
Department of Finance and Personnel

SCHEDULES.

SCHEDULE 1 Regulations 11(1), 19(2) and 20(2)

PART 1

DECIDING AND COMPENSATING AUTHORITIES

(1) *Employment Category*	*(2)* *Deciding Authority*	*(3)* *Compensating Authority*
A	the Board of Governors;	the appropriate board
B	in the case of controlled schools, the appropriate board; in the case of Catholic maintained schools, the Council;	the appropriate board the appropriate board
C	in the case of voluntary grammar schools, and grant maintained integrated schools, the Board of Governors; in the case of voluntary primary schools which are not maintained, the manager in the case of institutions of further education, the governing body;	the Department the Department the governing body
D	in the case of controlled schools, the appropriate board; in the case of Catholic maintained schools, the Council; in the case of a maintained school (other than a Catholic maintained or grant-maintained integrated school); the Board of Governors.	the Department the Department the Department
E	in the case of controlled schools, the appropriate board; in the case of Catholic maintained schools, the Council;	the Department the Department
F	the employing authority;	the Department

PART 2

1. For the purposes of this Part a person's relevant service is so much of his effective reckonable service as does not consist of periods that count by virtue of regulation D3 of the Superannuation Regulations (past period for which additional contributions have been paid).

2. Where the former employment has been terminated in the interests of the efficient discharge of the employer's functions the maximum period of service which may be credited to the teacher is set out in column (2) of the table according to the teacher's relevant service.

Relevant Service (1)	*Maximum period of service which may be credited (2)*
5 to 12 years	1 year
13 to 20 years	2 years
21 to 28 years	3 years
at least 29 years	4 years

3. Where the former employment has been terminated by reason of redundancy the maximum period of service which may be credited to the teacher is set out in column (2) of the table according to the teacher's relevant service.

Relevant Service (1)	*Maximum period of service which may be credited (2)*
5 to 8 years	1 year
9 to 12 years	2 years
13 to 16 years	3 years
17 to 20 years	4 years
21 to 24 years	5 years
25 to 28 years	6 years
29 years or over	6 2/3 years

PART 3

PREVIOUS COMPENSATION

1.—(1) This paragraph applies where, before the cessation of his former employment, a credited teacher has been credited with a period of additional service, or has had his period of service increased, for the purpose of calculating—

(a) retirement compensation under regulations made under section 137 of the Local Government (Northern Ireland) Act 1972(**a**) (compensation for loss of office) on account of loss of employment; or

(b) benefit under regulations made under section 3 of that Act (early retirement in lieu of compensation for loss of office); or

(c) compensation under any scheme made under Article 3 of the Superannuation (Northern Ireland) Order 1972(**b**) (civil servants, etc.) on account of his retirement in the public interest, or for loss of office; or

(d) compensation under these Regulations or any other regulations made under Article 19 of that Order (loss of office, etc.) on account of the termination of his employment by reason of redundancy or in the interests of the efficient discharge of his employer's functions; or

(**a**) 1972 C.9 (N.I)
(**b**) S.I. 1972/1073 (N.I. 10)

(2) Any reference in sub-paragraph (1) to instruments made under a specified enactment includes a reference to any instrument made under any enactment to the like effect, whenever enacted.

2. The period to be deducted, where paragraph 1 applies, from the first period mentioned in regulation 11(1)(b) is A - B - C, where —

A is the period with which he has been credited, or by which his service has been increased, as mentioned in paragraph 1,

B is any period by which A has been reduced in consequence of the cessation of subsequent employment, and

C is the aggregate of any periods falling between the cessation of employment that gave rise to A and the material date during which he was neither in pensionable employment nor in employment which would have been pensionable employment but for an election under regulation B6 of the Superannuation Regulations.

SCHEDULE 2

Regulation 27

MANDATORY COMPENSATION IN RELATION TO ADMITTED SERVICE

1. A person who is entitled to an annual pension in respect of admitted service and to whom paragraph 28A of Part IV of Schedule 10 (admitted service) to the Superannuation Regulations applies (actuarial reductions on premature retirement) is entitled to annual compensation and to lump sum compensation under this Schedule.

2. The rate of the annual compensation is the difference between the rate of the annual pension in respect of admitted service if calculated in accordance with paragraph 29A of that Part and the rate if calculated in accordance with paragraph 29 of that Part.

3. The amount of the lump sum compensation is the amount, if any, calculated in accordance with the said paragraph 29A by which the lump sum in respect of admitted service is reduced.

4. Regulations 20 (liability for compensation), 21 (arrangements for payment), 23 (notification), 24 (supply of information), 25 (payment of compensation) and 26 (compensation not assignable) shall apply in relation to compensation payable under this Schedule as they apply in relation to compensation payable under regulation 7.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Teachers (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991 as amended by SR 2002 No. 393 ("the 1991 Regulations").

Part 2 retains the existing provisions regarding discretionary compensation for redundancy.

Part 3 adds new provision regarding discretionary compensation for termination of employment. The maximum compensation which can be paid is 104 weeks' pay, less any redundancy payments to which the person is entitled and any compensation for redundancy paid under Part 2 of the regulations.

Part 4 adds new provision regarding mandatory compensation for premature retirement. Such mandatory compensation is the counterpart to provisions in the Teachers' Pensions (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010 No.xxx) which provide for the actuarial reduction of the retirement lump sum and the annual rate of the retirement pension in cases of premature retirement on or after 30th April 2010. The amount by which they are reduced is paid as lump sum compensation and annual compensation under regulation 7.

The remainder of Part 4 makes consequential provision regarding abatement of the annual compensation under regulation 7 during further employment (regulation 8), payment of supplementary death grant (regulation 9) and short-term family benefits (regulation 10).

Parts 5 and 6 retain the provisions formerly in Parts III and IV of the 1991 Regulations regarding discretionary compensation for premature retirement (the so-called additional service credit).

Part 7 contains miscellaneous and supplemental provision regarding compensation under Parts 4 and 5. In addition provision is made regarding mandatory compensation for admitted service as a counterpart to the actuarial reduction of admitted service benefits based on premature retirement under provisions in the Teachers' Pensions (Amendment) Regulations (Northern Ireland) 2010.

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