1976 No. 323

EDUCATION

Teachers' Compulsory Absence and Maternity Leave Regulations (Northern Ireland) 1976

Made . . . . . *2nd November* 1976

Coming into operation . . . *1st December* 1976

The Department(a) of Education (hereinafter referred to as "the Department") in exercise of the powers conferred on it by Articles 57, 58 and 125 of the Education and Libraries (Northern Ireland) Order 1972(b) and of all other powers enabling it in that behalf and after consultation with the Department(a) of Finance as required by Article 57 of the said Order hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Teachers' Compulsory Absence and Maternity Leave Regulations (Northern Ireland) 1976 and shall come into operation on 1st December 1976.

Revocation

2. The Teachers' Compulsory Absence and Maternity Leave Regulations (Northern Ireland) 1973(c) are hereby revoked.

Interpretation

3. In these regulations—

"approved" means approved by the Department;

"employing authority" means a board, or, in the case of a school not under the management of a board, the managers of that school;

"full-time teacher" means a teacher, including a peripatetic teacher or supply teacher, in respect of whose employment an agreement is required under Article 58 of the Order;

"institution" means any institution grant-aided by the Department in which a board provides facilities for further education;

"the Order" means the Education and Libraries (Northern Ireland) Order 1972;

"salaries regulations" means the Teachers' Salaries Regulations (Northern Ireland) 1976(d) or the Institutions of Further Education Salaries Regulations (Northern Ireland) 1976(e);

"salary" means the salary and allowances (other than an allowance paid under regulation 26 of the Teachers' Salaries Regulations (Northern Ireland) 1976 or under regulation 10 of the Institutions of Further Education Salaries Regulations (Northern Ireland) 1976) payable under the salaries regulations;

(a) Formerly Ministry; *see* 1973 c. 36 Schedule 5 paragraph 8(1)
(b) S.I. 1972, No. 1263 (N.I. 12)
(c) S.R. & O. (N.I.) 1973 No. 367 (II p. 2074)
(d) S.R. 1976, No. 128
(e) S.R. 1976, No. 141

"school" means a grant-aided school other than a technical intermediate school;

"teacher" means a teacher employed in a school or an institution, or a teacher employed by a board as a peripatetic teacher or a supply teacher.

Salary entitlement

4. Save as provided in these regulations a teacher shall not be entitled to salary in respect of any period during which she is required to absent herself under these regulations and any such period shall not be regarded as absence owing to illness.

Compulsory absence

5.—(1) A teacher shall absent herself from her teaching duties for eleven consecutive weeks before the week in which childbirth is expected, and shall continue to absent herself for such period as shall, together with the first mentioned period, amount to eighteen consecutive weeks: provided that—

(*a*) if the teacher shall fail to comply with these requirements the employing authority may require the teacher to absent herself for a period not exceeding eighteen weeks in all between such dates as it may with the approval of the Department determine; and

(*b*) the periods of eleven weeks and eighteen weeks may be reduced in any case where the employing authority and the Department are satisfied that the circumstances warrant a reduction.

(2) A teacher who is absent from her teaching duties because of childbirth shall not return to duty until she furnishes to the employing authority a certificate signed by a duly qualified medical practitioner that she is fit to resume duty and any period of absence in excess of the period for which provision is made by this regulation and which is attributable to the failure of the teacher to furnish such certificate may, if a duly qualified medical practitioner so certifies, be regarded as absence owing to illness.

(3) For the purpose of calculating the periods of eleven weeks and eighteen weeks or other period mentioned in paragraph (1)—

(*a*) teaching duties shall be deemed to be capable of being performed during any part of a year whether the school or institution is in operation or not and a teacher shall be deemed to be absenting herself from such duties during any period when the school or institution is not in operation; and

(*b*) a peripatetic teacher or a supply teacher shall be deemed to be absenting herself from her teaching duties during any period when she is not required to perform such duties.

Maternity leave

6. A full-time teacher who is a married woman, or a widow, and who at least sixteen weeks, or such shorter period as the employing authority may accept, before the week in which the birth is expected to take place informs her employing authority in writing—

(*a*) of the expected date of birth and the proposed period of absence from duty under regulation 5; and

(*b*) that she intends immediately following the period of absence to resume duty as a full-time teacher for a continuous period of at least thirteen weeks;

shall be granted leave of absence (but, in the case of a widow, only with the approval of the Department) for the period. Such leave of absence is hereinafter referred to as "maternity leave".

Salary during maternity leave

7.—(1) Where a teacher—

(*a*) has been granted maternity leave; and

(*b*) has for a period of at least one year immediately prior to the commencement of the period of maternity leave—

(i) given continuous service in Northern Ireland as a full-time teacher; or

(ii) given continuous teaching service in the United Kingdom at least three months of which service shall be continuous service in Northern Ireland as a full-time teacher immediately prior to the period of maternity leave and the remainder of which service shall be approved for the purpose of this regulation; and

(*c*) has signed an Undertaking with the Department or where the teacher is employed in a voluntary grammar school with the employing authority of that school, in an approved form to resume duty as a full-time teacher immediately following the period of maternity leave and to remain so employed for a period of thirteen consecutive weeks;

she shall (subject to the rights of the Department or, as the case may be, the employing authority of a voluntary grammar school under the said Undertaking and to paragraph (2)) be entitled to be paid salary during the period of maternity leave at the rate prescribed in regulation 9 and that period shall be taken into account for the purpose of the award of any salary increment to which the teacher may be entitled.

(2) Any such Undertaking as is referred to in paragraph (1) shall provide that if the full-time teacher shall fail to comply with any of the terms of that Undertaking she shall repay to the Department or, as the case may be, the employing authority of a voluntary grammar school all sums paid to her under paragraph (1).

(3) Where a full-time teacher is unable, because of illness, to resume duty immediately following the period of maternity leave, the period of thirteen weeks referred to in paragraph 1(*c*) shall begin immediately after the period of illness.

(4) Where in accordance with the Undertaking referred to in paragraph 1(*c*) a full-time teacher—

(*a*) has resumed duty as such in a school or institution; or

(*b*) has entered a full-time course of study or training approved for the purpose of this regulation; or

(*c*) in accordance with the direction of her employing authority has resumed duty as a full-time peripatetic teacher or full-time supply teacher

and furnishes a certificate from a duly qualified medical practitioner that she was fit to resume duty on an earlier date being a date which occurred after the expiration of the period of maternity leave but during a period when—

(i) the school or institution was closed or the full-time course of study or training was not in operation; or

(ii) in the case of a full-time peripatetic teacher or a full-time supply teacher, she was not required to perform her duties

she shall be deemed for the purpose of this regulation to have resumed duty on that earlier date.

Attendance at approved courses

8. For the purposes of regulations 6(*b*) and 7(1)(*b*) and 7(1)(*c*) and 7(4) a teacher may be deemed to be employed as a full-time teacher during any period when she is attending an approved full-time course of study or training undertaken while she was employed as a full-time teacher.

Rate of salary during maternity leave

9.—(1) Subject to the provisions of these regulations a full-time teacher shall be paid salary during a period of maternity leave as follows:—

(*a*) in respect of the first four weeks, an amount equivalent to her full salary reduced by the amount of any maternity allowance (including earnings related supplement and increases for dependants) payable to that teacher under the Social Security (Northern Ireland) Act 1975(f) in respect of that period, or which would have been so payable if she had satisfied the requirements of that Act and any regulations made thereunder;

(*b*) in respect of the remainder of the period an amount equivalent to one half of her full salary.

(2) Where the amount of salary payable under paragraph 1(*b*) in respect of any period together with the amount of any maternity allowance referred to in paragraph 1(*a*) exceeds the full salary which would be payable in respect of that period the amount of salary payable under paragraph (1)(*b*) shall be reduced by the amount of such excess.

Payment of salary

10. Salary payable to any full-time teacher under regulation 9 shall be paid by the person by whom salary was paid to that teacher immediately before the beginning of the period of maternity leave with respect to which that salary is payable.

Saving

11. Nothing in these regulations shall require any person to employ or continue to employ any teacher.

Sealed with the Official Seal of the Department of Education for Northern Ireland this 2nd day of November 1976.

(L.S.)

E. J. Kirkpatrick
Assistant Secretary

(f) 1975 c. 15

EXPLANATORY NOTE

(This note is not part of the regulations, but is intended to indicate their general purport.)

These regulations prescribe—

1. Compulsory absence of women teachers, including peripatetic and supply teachers, from their teaching duties for a period commencing at least eleven weeks before the week in which childbirth is expected and continuing for a period normally not exceeding eighteen weeks;

2. Payment of salary to certain married women teachers and widows who are absent from teaching duties owing to childbirth, such payment to be made during the absence but to be repayable in the event of breach of an undertaking to be signed by the teacher.