STATUTORY RULES OF NORTHERN IRELAND

2007 No. 137

EDUCATION

The Teachers' Pensions etc. (Reform Amendments) Regulations (Northern Ireland) 2007

Made - - - -	*7th March 2007*
Coming into operation -	*1st April 2007*

The Department of Education makes these 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 the 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**).

Citation and commencement

1. These Regulations may be cited as the Teachers' Pensions etc (Reform Amendments) Regulations (Northern Ireland) 2007 and shall come into operation on 1st April 2007.

Amendments

2.—(1) The Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996(**e**) are amended in accordance with Schedule 1.

(2) The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(**f**) are amended in accordance with Schedule 2.

(3) The Teachers' Superannuation Regulations (Northern Ireland) 1998(**g**) are amended in accordance with Schedule 3, together with Schedule 4.

Transitional provisions and savings

3. Schedule 5 (which contains transitional provisions and savings) has effect.

(**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
(**e**) S.R. 1996 No.260, as amended by S.R. 2001 No. 149, S.R. 2003 No. 86, S.R. 2005 No. 495 and S.R. 2006 No.163
(**f**) S.R. 1991 No. 132, as amended by S.R. 2002 No. 393
(**g**) 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 and S.R. 2006 No. 366

Election in respect of protected benefits.

4.—(1) In this regulation—

"the 1996 Regulations" means the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996,

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

(2) This regulation applies to a person—

(a) to whom a protected benefit is being paid or may become payable, and

(b) who is placed in a worse position than he would have been if a provision made by these Regulations had not applied in relation to the protected benefit.

(3) A protected benefit is one which is being paid, or may become payable, under the 1996 Regulations or the 1998 Regulations to, or in respect of, a person who was employed in qualifying employment but ceased to be employed, or died, before 1st April 2007.

(4) A person to whom this regulation applies may, by giving written notice to the Department before 1st July 2007, elect that the relevant provision shall not apply in relation to the protected benefit.

(5) If the election under paragraph (4) is made in relation to the benefit of a person who is in pensionable employment or subsequently becomes re-employed in pensionable employment—

(a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue—

(i) of periods of reckonable service before the cessation referred to in paragraph (3) (or, if there has been more than one cessation, the last of them before 1st April 2007), or

(ii) of contributions paid in respect of such periods of reckonable service, and

(b) in determining entitlement to, or the amount of, the benefit to that extent he shall be treated as if he had never re-entered pensionable employment again at any time after the cessation referred to in paragraph (3) (but without prejudice to the application of this paragraph),

and the 1996 Regulations and the 1998 Regulations shall apply accordingly.

(6) In paragraph (3) "qualifying employment", in relation to the 1996 Regulations, means pensionable employment within the meaning of those Regulations and, in relation to the 1998 Regulations, means pensionable employment or excluded employment within the meaning of those Regulations.

Sealed with the Official Seal of the Department of Education on 7th March 2007.



David Woods
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 7th March 2007.



Mary McIvor
A senior officer of the Department of Finance and Personnel

SCHEDULE 1

Regulation 2(1)

Amendments of the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996

Interpretation

1. In regulation 2(1)—

(a) insert the following definition at the appropriate place in alphabetical order—

""normal pension age" should be construed in accordance with the 1998 Regulations;",

(b) in the definition of "dependant" in sub-paragraph (c) after "a nomination under regulation" insert "E22A or",

(c) omit the definition of "retire".

Provision for lump sum death benefit

2. For regulation 5(4) substitute—

"(4) A person who has continued to pay regular contributions up to his normal pension age, but does not then cease to be in pensionable employment, may elect to pay regular contributions up to his first birthday after he reached the normal pension age to provide for a lump sum death benefit; and, so long as he has not ceased to be in pensionable employment, further elections may be made annually in respect of years commencing on his first birthday after he reached the normal pension age and subsequent birthdays.".

Variation and cancellation of elections

3. In regulation 6(1)(a) omit "subject to regulation 8(3)".

Retirement and dependant's pensions

4. In regulation 12—

(a) for paragraph (1) substitute—

"(1) In this regulation "the relevant date", in relation to a contributor or participator, means—

(a) the date on which he attains the age of 55, or

(b) the date on which he becomes entitled to payment of retirement benefits under regulation E4 of the 1998 Regulations,

whichever is the earlier.

(1A) The benefits that may be provided at any time after the relevant date in accordance with this regulation under a pension policy purchased as described in paragraph (7) are a retirement pension, one or more dependants' pensions or a lump sum which is a pension commencement lump sum for the purposes of Part 1 of Schedule 29 to the 2004 Act(**a**).".

(b) in paragraph (2) for "the date of retirement" substitute "the relevant date",

(c) in paragraph (5) for "Not earlier than one month before retirement, a participator, by giving written notice to the Department, shall" substitute "A participator may, at any

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(**a**) 2004 c.12

time, but not earlier than one month before the relevant date, by giving written notice to the Department".

(d) for paragraph (6) substitute—

"(6) In the case of a retirement pension, the notice may also specify that, if the participator dies within the period of 5 years beginning when the retirement pension commences, the pension shall continue to be paid during the remainder of that period to such person as the authorised provider or the Department, where he is liable to make payments of the pension pursuant to regulation 16(2), determines.".

(e) in paragraph (9) for "retirement" in both places that the word occurs substitute "the relevant date".

Pension sharing on divorce

5. In regulation 13A(**a**)—

(a) in paragraph (4) for "the age of 60" substitute "the normal pension age",

(b) in paragraph (7)(b) for "retirement" substitute "the relevant date".

Payment by the Department

6. In regulation 16(**b**)—

(a) in paragraph (2A) at the beginning insert "Subject to paragraphs (2B) and (2C)",

(b) after paragraph (2A) insert—

"(2B) The Department may, before paying any lump sum as mentioned in regulation 12(1A) require the person to whom the payment is to be made to provide a declaration as specified in paragraph (2C) by a date determined by the Department.

(2C) 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 2004 Act(**c**) does not apply.

(2D) Where no such declaration is received by the Department by the date referred to in paragraph (2B) the Department may treat the election under regulation 12 for a lump sum benefit as of no effect, and may apply the amount of the lump sum to the purchase of a pension policy from the insurance company referred to in regulation 9 to provide such benefits as appear to it to be suitable.".

SCHEDULE 2

Regulation 2(2)

Amendments of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991

Interpretation

1. In regulation 2(**d**) paragraph (2) omit the definitions of "civil partner" and "civil partnership".

Allocation of part of annual compensation

2. Omit regulation 8.

(**a**) Regulation 13A was inserted by regulation 3(1) of and Schedule 4 to S.R. 2001 No. 149
(**b**) Regulation 16 (2A) was inserted by regulation 12(a) of S.R. 2006 No. 163
(**c**) Paragraph 3A of Schedule 29 to the Finance Act 2004 was inserted by section 159 of the Finance Act 2006 (c.25)
(**d**) Regulation 2(2) was amended by regulation 6 of S.R. 2002 No. 495

Long-term compensation on death

3. In regulation 10(7) omit "any allocation under regulation 8 and".

Duration of compensation on death

4. In regulation 11 after paragraph (4) insert—

"(4A) 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 Pensions Regulations.".

SCHEDULE 3

Regulation 2(3)

Amendments of the Teachers' Superannuation Regulations (Northern Ireland) 1998

Employment - general

1. In regulation B1—

(a) for paragraph (1) substitute—

"(1) Subject to paragraphs (2), (4), (4A), (5) and regulations B3 to B5, a person is in pensionable employment while he is in employment—

(a) in a capacity specified in Schedule 2, or

(b) as a teacher in an accepted school.".

(b) for paragraph (4) substitute—

"(4) A person who was in part-time employment on the 31st March 2007 is not, for so long as he remains in the same employment, in pensionable employment, unless he has at some time made an election for the purposes of this paragraph.",

(c) after paragraph (4) insert—

"(4A) Where a person is in full-time employment and at the same time in part-time employment the part-time employment is not pensionable employment, and accordingly —

(a) where an election was made before 1st April 2007, pursuant to paragraph (4), that such part-time employment should be pensionable, any such part-time employment on or after 1st April 2007 is (despite the election) no longer pensionable and

(b) any election made on or after 1st April 2007 pursuant to paragraph (4) that such part-time employment is to be pensionable is of no effect.",

(d) after paragraph (5) insert—

"(5A) A person who, before 1st April 2007,

(a) was entitled to be paid a teacher's pension, including cases where the annual rate of pension had been reduced to zero in accordance with regulation E14 (abatement of retirement pension during further employment) and

(b) was in employment of a kind referred to in paragraph (1)

is not, for so long as he remains in the same employment, in pensionable employment unless he falls within paragraph (5B).

(5B) A person falls within this paragraph if he is entitled to payment of retirement benefits by virtue of regulation E4(4) or (5) (incapacity) and ceases to be incapacitated.".

(e) after paragraph (6) insert—

"(7) Where the election is made by a person with mixed service or a 1st April 2007 or later entrant and, pursuant to paragraph (6), has effect from a date earlier than that referred to in paragraph (5) all pensionable employment during the back period shall be treated as having occurred—

(a) after the post-break employment start, where the election is made by a person with mixed service, or

(b) on or after 1st April 2007, where the election is made by a 1st April 2007 or later entrant.".

Employment in an accepted school

2. After regulation B2 insert—

"Employment in an accepted school

B2A.—(1) A person employed in an accepted school is not in pensionable employment if he has any financial interest in it other than a right to a salary.

(2) Subject to paragraph (7), a school is an accepted school if the Department has accepted it for the purposes of this regulation.

(3) A school that may be accepted is an independent school within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(**a**), and registered under Article 38 of that Order.

(4) A school may only be accepted if its governing body has made a written application to the Department.

(5) A school may be accepted only where there is in force a guarantee, indemnity or bond in a form and amount and provided by a person approved by the Department which provides for payment to the Department of all liabilities of the school under these Regulations or under the 1996 Regulations should the school fail to meet them.

(6) No school need be accepted, but if a school is accepted its acceptance takes effect as from a date to be agreed between the Department and its governing body, which must be the first day of a month later than that in which the application was made.

(7) A school which has become an accepted school ceases to be one from the date specified in a written notice given to its governing body by the Department.

(8) Notice for the purposes of paragraph (7) may be given if—

(a) the school ceases to be registered as mentioned in paragraph (3), or

(b) its governing body—

(i) has made a written application to the Department for the school to cease to be an accepted school, or

(ii) has failed to pay or remit contributions (whether under these Regulations or under the 1996 Regulations) to the Department, or

(iii) has failed to comply with regulation H2 (records and information) or any other provision of these Regulations relating to pensionable employment.

(9) Paragraphs (4) to (7) apply to a school which had previously ceased to be an accepted school as they apply to a school which has not previously been an accepted school.

(10) In this regulation—

(a) "governing body" includes any person by whom teachers are employed,

(b) "the 1996 Regulations" means The Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996.".

(**a**) The Education and Libraries (Northern Ireland) Order 1986 (S.I. 1996/594 (N.I. 3)) as amended by Article 30 of S.I. 1996/274 (N.I. 1)

Employment not pensionable

3. In regulation B3—

(a) in paragraph (1)(a) for "under the age of compulsory retirement" substitute "under 75",

(b) after paragraph (1) insert—

"(1A) Unless he has attained the age of 60, a person to whom a teacher's pension is paid by virtue of him being entitled to such a pension pursuant to regulation E4(5) and who is in employment of a kind referred to in regulation B1(1), even though he has not ceased to be incapacitated, is not in pensionable employment.",

(c) omit paragraph (3).

Election not to be pensionable

4. In regulation B4—

(a) for paragraph (2)(a) substitute—

"(a) the person ceases to be in pensionable employment for all purposes of these Regulations (and accordingly if, when the election has effect, the person is a party to more than one contract of employment then all the employments in which the person is engaged cease to be pensionable), and",

(b) in paragraph (2) (b) omit "in any case,",

(c) at the end of paragraph (4) insert "(without prejudice to the effect of paragraph (2)(a) in relation to any other employment in which the person is engaged at the time when the election has effect)".

Election to rejoin pensionable service

5. In regulation B5—

(a) after paragraph (1) insert—

"(1A) A person to whom sub-paragraph (a) or (b) of regulation B1 (5A) applies or has applied who—

(a) is in employment which would otherwise have been pensionable employment, or

(b) is not in, but expects to enter, such employment,

may also at any time, by giving written notice to the Department, make an election under this regulation.",

(b) in paragraph (4) after "paragraph (1)(b)" insert "or (1A)(b)".

Ordinary contributions

6. For regulation C2 substitute—

"**Ordinary Contributions**

C2.—(1) In this regulation "relevant period" is to be construed in accordance with regulation G4(3).

(2) A person who is in pensionable employment is to pay contributions of—

(a) 6% of his contributable salary for the time being in respect of any period before 1st April 2007,

(b) 6.4%of his contributable salary for the time being in respect of the relevant period starting on 1st April 2007, and

(c) X% of his or her contributable salary for the time being in respect of any subsequent relevant period, where X has the same value as that determined by the

Secretary of State from time to time in accordance with regulation C3(2)(c) of the Teachers' Pensions Regulations 1997(**a**).

(3) No contributions are to be paid by any person to whom regulation E32(2)(a) (restriction of reckonable service to 45 years) has become applicable."

Election in respect of additional benefits

7. After regulation C2 insert—

"**Election in respect of additional benefits**

C2A.—(1) Any person in pensionable employment who has not attained the normal pension age may at any time elect to pay additional contributions in accordance with Schedule 2A in order to be credited with additional benefits.

(2) The employer of a person in pensionable employment may at any time elect to pay additional contributions in accordance with Schedule 2A in order for that person to be credited with additional benefits.

(3) Where, pursuant to such an election and Schedule 2A, a person is credited with increased benefits for his dependants, those benefits are to be paid in accordance with regulation E29A.".

Additional contributions for past period

8. Omit regulations C3 and C4.

Additional contributions for past period under earlier provisions

9. For regulation C5 substitute—

"**Additional contributions for past period under earlier provisions**

C5.—(1) Schedule 4 has effect where immediately before 1st April 2007 a person had elected to pay additional contributions under old regulation C4 and additional contributions remain to be paid.

(2) Paragraphs 1 to 6 of Schedule 5 have effect where immediately before 2nd November 1998 additional contributions remained to be paid by virtue of regulations 22 to 25 of the 1977 Regulations.".

Additional contributions for current period

10. Omit regulation C6.

Additional contributions for current period: service in a reserve force

11. In regulation C7—

(a) for paragraph (3) substitute the following paragraph—

"(3) An additional contribution is payable for each financial year and is the same percentage of the notional salary for so much of the period as falls within that financial year as would be paid if the person was liable to pay contributions under regulation C2 (2).".

(b) in paragraph (6) before "regulation C3" insert "old".

Contributions for family benefits

12. In regulation C8 after paragraph (3) insert—

(**a**) S.I. 1997/3001; regulation C3 was substituted by S.I. 2006/3122, regulation 8.

"(4) Parts IIB and III of Schedule 6 have effect for enabling family benefit contributions to be paid in order to secure, or to increase, family benefits for a surviving nominated partner in respect of reckonable service which is not relevant service as mentioned in regulation E27 (2B).".

Right to repayment of balance of contributions

13. In regulation C9(1)(e) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7".

Calculation of balance of contributions

14. In regulation C10(3)(a) for "regulations C2, C3, C6, C7 and C8" substitute "regulations C2 and C2A, old regulation C6, regulations C7 and C8 and under Part 1 of Schedule 4 as a result of an election under old regulation C3".

Return of repaid contributions

15. In regulation C13 in paragraph (11) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7".

Uncompleted return by instalments of repaid contributions

16. In regulation C14(6)(a) for "if he elects to pay additional contributions for a current period under regulation C6 or C7" substitute "if he has elected to pay additional contributions for a current period under old regulation C6 or if he elects to pay additional contributions for a current period under regulation C7".

Deduction, payment and recovery of contributions

17. In regulation C15—

(a) in paragraph (1)—

(i) after sub-paragraph (a) insert—

"(za) any additional contributions payable as a result of an election under regulation C2A,",

(ii) in sub-paragraph (b) before "regulation C4" insert "old",

(b) in paragraph (6) for "regulation C6, C7, C13 or C14" substitute "old regulation C6, or regulation C7, C13 or C14".

Current period for which additional contributions have been paid

18. In regulation D4(1) before "regulation C6" insert "old".

Meaning of various terms

19. Before regulation E1 insert—

"Meaning of various terms

EA1.—(1) In these Regulations the expressions set out in paragraphs (2), (5), (7), (8), (9) and (10) have the meanings specified in those paragraphs.

(2) A "pre-1st April 2007 entrant" means a person who satisfies one of the conditions in paragraph (3).

(3) The conditions are—

(a) that the person was in pensionable employment before 1st April 2007 but is not in such employment on, or at any time after, that date, or

(b) that the person was in pensionable employment before 1st April 2007 and is also in pensionable employment at any time on or after that date but does not cease to be a pre-1st April 2007 entrant by virtue of paragraph (4),

(4) A person ceases to be a pre-1st April 2007 entrant if he takes up pensionable employment again ("the new employment") after 31st March 2007 after a relevant break of service.

(5) A "relevant break of service" means a period ending after 31st March 2007 (and where there is more than one such period, the first of them) when a person is not in pensionable employment such that the interval between the first day of the new employment and the last day of the most recent previous period of pensionable employment is more than 5 years, and it is immaterial whether the last day of the most recent previous period of pensionable employment was before 1st April 2007 or not.

(6) For the purposes of determining the interval referred to in paragraph (5) any period of employment is ignored unless—

(a) the employment is pensionable employment of at least 60 days (which need not be continuous), or

(b) the employment which the person is entitled to count as reckonable service amounts to at least 30 days,

(in either case) in a period of 12 months starting at any time in the year.

(7) "Post-break employment start" means the start of the new employment after a relevant break of service, and for the purposes of this definition, any periods of employment which are ignored for the purposes of determining the interval referred to in paragraph (5) are treated as having taken place before the start of the new employment.

(8) A "person with mixed service" means a person who was in pensionable employment before 1st April 2007 but who has ceased to be a pre-1st April 2007 entrant by virtue of paragraph (4).

(9) A "1st April 2007 or later entrant" means anyone other than a pre-1st April 2007 entrant or a person with mixed service who is or has been in pensionable employment.

(10) The "normal pension age" means the age of 60 in the case of a pre-1st April 2007 entrant and the age of 65 in any other case (except in relation to a pension credit member who normal pension age is determined in accordance with regulation I2A).

(11) Where a person has been in comparable British service before entering pensionable employment the comparable British service shall, for the purposes of this regulation, be treated as if it were pensionable employment provided that neither a cash equivalent transfer value nor a transfer value has been paid in respect of the comparable British service (other than a cash equivalent transfer value or a transfer value accepted by the Department) nor has the balance of the person's contributions relating to the comparable British service been repaid.

(12) For the purposes of this regulation—

(a) a person is treated as being in pensionable employment during any period for which he is paying additional contributions under old regulation C6 or regulation C7, and

(b) "comparable British service" does not include service which is pensionable under a superannuation scheme for teachers in public employment in the Channel Islands and the Isle of Man.".

Residual liability for guaranteed minimum pensions and for section 5(2B) rights

20. In regulation E1A(2)(b) for "the age of 60" substitute "the normal pension age".

Nature of retirement benefits

21. For regulation E2 substitute—

"Nature of retirement benefits

E2. Retirement benefits consist of—

(a) a retirement pension,

(b) a retirement lump sum where regulation E6 applies, and

(c) where applicable, a lump sum in place of a retirement pension (referred to in regulation E6A),

calculated in accordance with this Part.".

Entitlement to payment of retirement benefits

22. In regulation E4—

(a) for paragraph (2)(a) substitute—

"(a) has, subject to paragraphs (2A) and (2B), attained the normal pension age,",

(b) after paragraph (2) insert—

"(2A) Where the person is a person with mixed service, paragraph (2)(a) has effect —

(a) in relation to the part of the retirement pension referred to in regulation E5(2)(c)(i), and

(b) in relation to the retirement lump sum,

as if for the "normal pension age" there were substituted "the age of 60.".

(2B) Where the person is a person with mixed service in respect of whom an election under regulation C2A has been made and, at the time when the election was made the person had not ceased to be a pre-1st April 2007 entrant by virtue of regulation EA1(4), paragraph (2)(a) has effect, in relation to the part of the retirement pension referred to in regulation E5A, as if for "the normal pension age" there were substituted "the age of 60."

(c) in paragraph (4)(a) for "the age of 60" substitute "the normal pension age",

(d) in paragraph (5)—

(i) in sub-paragraph (a) for "the age of 60" substitute "the normal pension age", and

(ii) for sub-paragraph (c) substitute—

"(c) is incapacitated, became so before attaining the normal pension age, and

(i) immediately before he became incapacitated—

(aa) was in pensionable employment, or

(bb) was taking a period of unpaid sick leave, maternity, paternity or adoptive leave (taken with the consent of the person's employer) or a career break which, in each case, followed on immediately after a period of pensionable employment, or

(cc) was paying additional contributions under old regulation C6 or regulation C7, or

(ii) made an application for payment under regulation E33(2) such that it was received by the Department before 6th April 2007, or

(iii) (where neither paragraph (i) nor (ii) applies) his ability to carry out any work is impaired by more than 90% and is likely permanently to be so."

(e) in paragraph (7)—

(i) for sub-paragraph (a) for "the age of 60" substitute "the normal pension age",

(ii) in sub-paragraph (b) substitute—

"(b) has attained the age—

(i) of 50, if he is not a post-5th April 2006 entrant and attained that age before 6th April 2010, or

(ii) of 55 in any other case,".

(f) after paragraph (7AB) insert—

"(7AC) In case G the person—

(a) has attained the age of 55,

(b) has ceased on or after 1st April 2007 and before attaining the normal pension age to be in pensionable employment or excluded employment, and

(c) is not within Case C or Case F,

and the conditions specified in paragraph (7AD) are satisfied.

(7AD) The conditions in this paragraph are—

(a) where the person has a guaranteed minimum pension in respect of employment before 6th April 1997, or an equivalent pension benefit relating to employment undertaken during the period starting on 3rd April 1961 and ending on 5th April 1975 (or both), that the annual rate of the person's retirement benefits in the opinion of the Government Actuary is equal to or exceeds the equivalent pension benefit or the value of the guaranteed minimum pension (or if both the aggregate), and

(b) where, at the time of the application for payment of benefits under regulation E33, the person was in pensionable employment or excluded employment that—

(i) the person's employer has consented to the application, or

(ii) 6 months have elapsed since the date on which the person requested his employer to give consent and such consent has not been given.".

(g) after paragraph (11) insert—

"(11A) In Case G the entitlement takes effect—

(a) where, at the time of the application for benefits under regulation E33, the person was in pensionable employment or excluded employment, as from the day after the end of the employment, and

(b) in any other case on a date determined by the person making the application for benefits under regulation E33 being a date no earlier than 6 weeks after the date of such application.".

Retirement benefits – pension and lump sum

23. For regulations E5 and E6 substitute—

"Eligibility for payment of phased retirement benefits

E4A.—(1) In these Regulations "phased retirement benefits" means retirement benefits to which a person may be eligible under this regulation.

(2) A person in pensionable employment who is qualified for retirement benefits is eligible to receive a part of his retirement benefits before he becomes entitled to payment of them if—

(a) he has attained the age of 55, and

(b) his employer at the time of an election pursuant to paragraph (4) has certified that he will continue in pensionable employment such as to result in a reduction of contributable salary of at least 25%, as compared with the average annual rate of his contributable salary for the six months prior to the end of his previous

employment, from the first day of pensionable employment at the reduced contributable salary.

(3) A person who is qualified for retirement benefits is also eligible to receive part of his retirement benefits before he becomes entitled to payment of them if—

(a) he has attained the age of 55,

(b) after attaining that age he ceases to be in pensionable employment,

(c) within six months of the last day of that employment has—

(i) secured further pensionable employment, or

(ii) secured further employment in a school, college or university otherwise than as a teacher, and

(d) his employer in the further employment has certified that there has been a reduction in his contributable salary of at least 25%, as compared with the average annual rate of his contributable salary for the six months prior to the end of his previous employment, from the first day of further employment at the reduced contributable salary.

(4) Eligibility to phased retirement benefits pursuant to this regulation is conditional upon—

(a) the person making a maximum of two elections for such benefits, and each election is accompanied by certification as prescribed in paragraph (2)(b) or (3)(d) and

(b) the election being made within three months of starting employment as referred to in paragraph (2)(b) or securing further employment as referred to in paragraph (3).

(5) Subject to paragraph (7) the election shall specify a percentage ("the election percentage"), not exceeding 75% by reference to which retirement benefits are to be calculated in accordance with paragraphs (8) to (10).

(6) Where in the 12 month period following the reduction of contributable salary, a person receives an increase in excess of the standard increase as defined in regulation E31(13)(c) in remuneration such as to give that person 75% or more of his salary prior to that reduction, then any election made pursuant to this regulation ceases to have effect.

(7) Where the person is a person with mixed service the election may specify that it only applies to the part of the person's effective reckonable service which was before the start of the new employment after the relevant break of service or only applies to the part of the person's effective service which was after the start of the new employment after the relevant break of service.

(8) Where the election is the first or only election the phased retirement benefits are calculated on the basis specified in regulation E5(2) and (where applicable) E6(2) but—

(a) the person's average salary is calculated as if his average salary service ended immediately at the date of the change in pensionable employment, and

(b) the person's effective reckonable service is the election percentage of his reckonable service up to the date of the change in pensionable employment.

(9) Where the election is the second election, phased retirement benefits are calculated on the basis specified in regulation E5(2) and (where applicable) E6(2) but—

(a) the person's average salary is calculated in the manner specified in paragraph (8), and

(b) the person's effective reckonable service is—

(i) the election percentage of the person's reckonable service up to the date of the second change in pensionable employment, less

(ii) the amount of reckonable service calculated in accordance with paragraph (8)(b).

(10) Phased retirement benefits calculated in accordance with paragraph (8) or (9) are adjusted by multiplication by the appropriate factor, and (in the case of a retirement pension) the adjustment is effected in the same way as is specified in regulation E5(7).

(11) A person who has elected to pay additional contributions under regulation C2A and who has elected for phased retirement benefits, may elect also for payment in full of those additional benefits to which he is entitled under that regulation, multiplied by the appropriate factor in the same way as is specified in regulation E5A(6).

(12) In calculating the factor by which additional benefits referred to in paragraph (11) are to be multiplied and divided pursuant to regulation E5A(3) and (4)—

(a) RI is the retail prices index for the second month before the month in which the change in pensionable employment occurred, and

(b) the definition of X has effect as if for "the date on which the person became entitled to payment of retirement benefits" there were substituted "the date of the change in pensionable employment".

(13) Where the employer referred to in paragraph (3)(d) is unable to certify as prescribed in that paragraph because the previous employer has not provided him with the necessary information, the Department may determine nevertheless whether the person shall be entitled to phased retirement benefits.

(14) In this regulation "change in pensionable employment", where the person falls within paragraph (2), is the day before the date on which contributable salary is reduced, and where the person falls within paragraph (3) is the date of leaving previous pensionable employment.

Amount of retirement pension

E5.—(1) The annual rate of a person's retirement pension is the rate specified in paragraph (2) together with the rate specified in regulation E5A where that regulation applies (but nothing in this regulation or regulation E5A shall prevent different parts of a person's retirement pension being paid at different times if the person becomes entitled to the parts at different times).

(2) Subject to paragraphs (4) and (6) to (13) and regulations E6A to E10, the rate is —

(a) in the case of a pre-1st April 2007 entrant, 1/80th of the person's average salary multiplied by his effective reckonable service,

(b) in the case of a 1st April 2007 or later entrant, 1/60th of the person's average salary multiplied by his effective reckonable service, and

(c) in the case of a person with mixed service the aggregate of—

(i) 1/80th of the person's average salary multiplied by that part of his effective reckonable service which was before the post-break employment start.

(ii) 1/60th of the person's average salary multiplied by that part of his effective reckonable service which was after the post-break employment start.

(3) For the purposes of paragraph (2) reckonable service is to be expressed in years and fractions of a year.

(4) If—

(a) the person is entitled to count a period as reckonable service by virtue of regulation D3 (past period for which additional contributions have been paid), and

(b) by reason of regulation E32(3) part of that period does not count in calculating his retirement lump sum,

the annual rate calculated in accordance with paragraph (2) is, in respect of each year comprised in that part, increased by 1/350th of his average salary.

(5) In paragraphs (6) to (9) "the basic rate" is the rate calculated in accordance with paragraphs (2) and (4) and, where appropriate, regulation E7 or E9 (but disregarding the effect of regulation E10).

(6) Subject to paragraphs (7) to (9), where—

(a) a person who has become entitled to payment of retirement benefits by virtue of regulation E4(5), or

(b) a person has become entitled to payment of retirement benefits by virtue of regulation E4(7AC),

the basic rate is adjusted as specified in paragraph (7).

(7) The adjustments are—

(a) in the case of a pre-1st April 2007 entrant, multiplication of the annual rate of such pension by the appropriate factor for a person with a normal pension age of 60,

(b) in the case of a 1st April 2007 or later entrant, multiplication of the annual rate of such pension by the appropriate factor for a person with a normal pension age of 65,

(c) in the case of a person with mixed service who has not attained the age of 60, multiplication of that part of the annual rate of such pension referred to in paragraph (2)(c)(i) by the appropriate factor for a person with a normal pension age of 60 and multiplication of that part of the annual rate of such pension referred to in paragraph (2)(c)(ii) by the appropriate factor for a person with a normal pension age of 65, and

(d) in the case of a person with mixed service who has attained the age of 60, multiplication of that part of the annual rate of such pension referred to in paragraph (2)(c)(ii) by the appropriate factor for a person with a normal pension age of 65.

(8) Where the person falls within paragraph (6)(a) and—

(a) the person has a guaranteed minimum in relation to employment up to 6th April 1997, and

(b) A exceeds B, where

A is the annual equivalent of his guaranteed minimum pension together with that of any equivalent pension benefits, and

B is the basic rate, where applicable, adjusted in accordance with paragraphs (6) and (7)

the annual rate of his retirement pension is A.

(9) Where a 1st April 2007 or later entrant or a person with mixed service has effective reckonable service which has occurred after he attained the age of 65 the basic rate is adjusted as specified in paragraph (10).

(10) The adjustments are—

(a) in the case of a 1st April 2007 or later entrant, multiplication of the annual rate of that part of his retirement pension which relates to effective reckonable service before the person attained the age of 65, by the relevant enhancement factor, and

(b) in the case of a person with mixed service, multiplication of that part of his retirement pension which relates to the part of his effective reckonable service before the person attained the age of 65 but after the post-break employment start, by the relevant enhancement factor.

(11) In paragraph (10) "the relevant enhancement factor" means a factor (related to the length of the period which has elapsed between the person's 65th birthday and the date (after his 65th birthday) on which he became entitled to retirement benefits) determined from time to time for the purpose of this regulation by the Department after taking advice from the Government Actuary.

(12) If a contributions equivalent premium has been paid in respect of the person and has not been refunded (and his entitlement to a guaranteed minimum pension is therefore extinguished) the annual rate of his retirement pension is reduced by the annual equivalent of the guaranteed minimum pension to which he would otherwise have been entitled.

(13) Where a person has received phased retirement benefits, the person's effective reckonable service is reduced by the amount of reckonable service (determined under regulation E4A(8) and, where applicable, regulation E4A(9))taken into account in calculating phased retirement benefits.

Retirement pension when election has been made under regulation C2A

E5A.—(1) This regulation applies where one or more elections under regulation C2A have been accepted by the Department and have not ceased to have effect.

(2) Where this regulation applies the annual rate of a person's retirement pension is (in addition to the annual rate specified in regulation E5(2)) the aggregate of the annual rates with which the person has been credited pursuant to each election and Schedule 2A, multiplied by the factor specified in paragraph (3) and divided by the factor (if it is greater than one) specified in paragraph (4).

(3) The factor in this paragraph is RI/RE where—

RI is the retail prices index for second month before the month in which the person becomes entitled to the part of his retirement pension referred to in this regulation, and

RE is the retail prices index for the month which includes the start date, as defined in paragraph 1 of Schedule 2A, for the election in question.

(4) The factor in this paragraph is X/Y where—

X is the amount which would have been the annual rate of the person's retirement pension calculated in accordance with the combined effect of paragraphs (2) and (3) (as if in paragraph (2) the words "and divided by the factor (if it is greater than one) specified in paragraph (4)" had been omitted) and any increases effected by the 1971 Act up to the date on which the person became entitled to payment of retirement benefits, and

Y is the amount which would have been the annual rate of the person's retirement pension calculated in accordance with paragraphs (2) and (3) if in paragraph (2) the words "and divided by the factor (if it is greater than one) specified in paragraph (4)" had been omitted and if the 1971 Act did not apply.

(5) Where regulation E5(6) applies, the annual rate of the person's retirement pension calculated in accordance with paragraphs (2) and (3) shall be adjusted as specified in paragraph (6).

(6) The adjustments are—

(a) in the case of a pre-1st April 2007 entrant, multiplication of the annual rate of such pension by the appropriate factor for a person with a normal pension age of 60,

(b) in the case of a 1st April 2007 or later entrant, multiplication of the annual rate of such pension by the appropriate factor for a person with a normal pension age of 65, and

(c) in the case of a person with mixed service who falls within regulation E4(2B) who has not attained the age of 60, multiplication of the annual rate of such pension by the appropriate factor for a person with a normal pension age of 60, and

(d) in the case of a person with mixed service other than a person such as is referred to in regulation E4(2B), multiplication of the annual rate of such pension by the appropriate factor for a person with a normal pension age of 65.

(7) In this regulation "the 1971 Act" means the Pensions (Increase) Act (Northern Ireland) 1971(**a**).

Amount of retirement lump sum

E6.—(1) This regulation applies to a pre-1st April 2007 entrant and a person with mixed service.

(2) Subject to paragraphs (4), (5), (7) and (8) and regulations E7 and E8, the amount of retirement lump sum for a person to whom this regulation applies is Ax(B+C) where—

A is 3/80ths of the person's average salary

B is, in the case of a pre-1st April 2007 entrant, his effective reckonable service or, in the case of a person with a mixed service, that part of his effective reckonable service which was before the post-break employment start (except, in either case, any falling within C), and

C is the period which he is entitled to count as reckonable service by virtue of regulation D3 (past period for which additional contributions have been paid).

(3) For the purposes of paragraph (2), reckonable service is to be expressed in years and fractions of a year.

(4) A person's retirement lump sum cannot exceed his permitted maximum.

(5) Where—

(a) person to whom this regulation applies who has become entitled to payment of retirement benefits by virtue of regulation E4(5) before attaining the age of 60 has ceased to be in pensionable employment, or

(b) a person to whom this regulation applies has become entitled to payment of retirement benefits by virtue of regulation E4(7AC) before attaining the age of 60,

the amount of the person's retirement lump sum shall be the amount calculated in accordance with paragraph (2) multiplied by the appropriate factor.

(6) A person who has attained the age of 75 is not entitled to a lump sum.

(7) Where a person has received phased retirement benefits the person's effective reckonable service shall be calculated in accordance with regulation E5(13).

(8) Where an election to receive phased retirement benefits ceased to have effect by virtue of regulation E4A(6), then the amount of a person's retirement lump sum on entitlement to retirement benefits is reduced by any lump sum under regulation E6 received pursuant to that election.

Lump sum in place of part of pension

E6A.—(1) Subject to paragraph (4) a person may, by an election made with the application for payment under regulation E33(2), elect to receive a further lump sum of such amount as is specified in the election (subject to paragraph (2)) in place of part of his retirement pension.

(2) The amount of such lump sum must be a multiple of £12 and cannot exceed—

(a) in the case of a 1st April 2007 or later entrant, his permitted maximum, and

(b) in the case of a pre-1st April 2007 entrant or a person with mixed service, his permitted maximum less his retirement lump sum.

(3) Where a lump sum is paid under this regulation, the annual rate of the person's retirement pension is reduced by £1 for every £12 of lump sum.

(**a**) 1971 c. 35 (N.I.) to which there are amendments not relevant to this regulation.

(4) This regulation does not apply to a person who is a pre-1st April 2007 entrant and falls within regulation EA1(3)(a).

(5) Paragraph (6) applies where—

(a) a person has elected to receive phased retirement benefits and has also elected pursuant to this regulation ("the first election") to receive a further lump sum in place of part of the retirement pension comprised in the phased retirement benefits, but

(b) the election to receive phased retirement benefits ceased to have effect by virtue of regulation E4A(6).

(6) Where this paragraph applies the person is treated, on becoming entitled to payment of retirement benefits, as having elected pursuant to this regulation to receive a further lump sum of the appropriate amount, and the appropriate amount is then reduced by the lump sum paid to the person pursuant to the first election.

(7) Paragraph (8) applies where a person to whom regulation E15 applies elected pursuant to this regulation ("the first election") to receive a further lump sum in place of part of the first pension.

(8) Where this paragraph applies the person is treated, on becoming entitled to payment of retirement benefits pursuant to regulation E15(2) or (4) as having elected pursuant to this regulation to receive a further lump sum of the appropriate amount, and the appropriate amount is then reduced by the lump sum paid to the person pursuant to the first election.

(9) In this regulation—

(a) "the appropriate amount" is the amount [rounded to the nearest £12] such that the proportion which the rate of retirement pension forgone bears to the rate of retirement pension to which the person is entitled is the same as the proportion which the rate of retirement pension forgone pursuant to the first election bore to—

(i) the rate of retirement pension to which the person was eligible pursuant to the election made under regulation E4A, where the person falls within paragraph (5), or

(ii) the rate of the first pension, where the person falls within paragraph (7),

(b) "the first pension" has the same meaning as in regulation E15(1)(a).

Persons aged 75 or over

E6B.—(1) Where a person would be entitled to a retirement lump sum but for regulation E6(6), the annual rate of that person's retirement pension shall be increased by an amount which represents the value of the retirement lump sum to which the person would have been entitled, payable from the date when the person's application made under regulation E33 is received by the Department.

(2) The increase in the annual rate of the person's retirement pension shall be determined by the Department after taking advice from the Government Actuary.".

Limitation of retirement benefit in certain cases

24. In regulation E7 after paragraph (5) insert—

"(6) In this regulation references to "retirement pension" and "retirement lump sum" are references to such pension and lump sum before any actuarial reduction required by regulation E5(6) and (7) or E6(5).".

Enhancement of retirement benefits in case of incapacity

25.—(1) At the end of the heading to regulation E8 insert "**where application is received before 6th April 2007**".

(2) In regulation E8—

(a) in paragraph (1) after "in pensionable employment" insert "and whose application for payment under regulation E33(2) is received by the Department before 6th April 2007",

(b) in paragraph (7) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7.".

(3) After regulation E8 insert the following—

"Total incapacity benefit where application received on or after 6th April 2007

E8A.— This regulation applies to a person who has become entitled to payment of retirement benefits by reason of his having become incapacitated and where, immediately before he became incapacitated—

(a) he was in pensionable employment, or

(b) he was taking a period of unpaid sick leave, maternity, paternity or adoptive leave (taken with the consent of the person's employer) or a career break which, in each case, followed on immediately after a period of pensionable employment, or

(c) he was paying additional contributions under old regulation C6 or regulation C7,

and whose application for payment under regulation E33(2) is received by the Department on or after 6th April 2007 and who satisfies the condition in paragraph (2)(a) and either the condition in paragraph (2)(b) or the condition in paragraph (2)(c).

(2) The conditions are—

(a) that (in addition to being incapacitated) the person's ability to carry out any work is impaired by more than 90% and is likely permanently to be so, and

(b) where the person falls within paragraph (1)(a) or (1)(c), that the application for payment required by regulation E33(2) is made within 6 months after the end of the pensionable employment or within 6 months after the last payment of additional contributions under old regulation C6 or regulation C7 as the case may be, or

(c) where the person falls within paragraph (1)(b) that the application for payment required by regulation E33(2) is made—

(i) where the person was on unpaid sick leave, before the period of sick leave ends, and

(ii) in any other case before the date on which, under the arrangements made with the person's employer, the leave or career break is due to end.

(3) The person becomes entitled (subject to regulation E32(2) (limitation of effective reckonable service to 45 years)) to payment of a total incapacity pension and (where applicable) a total incapacity lump sum calculated in accordance with regulation E5 or (where applicable) E6 but with the amount of effective reckonable service calculated in accordance with paragraph (4).

(4) The effective reckonable service is (X-Y)/2 where—

X is the amount which would have been the person's reckonable service if the person had ceased to be in pensionable employment on his attaining the normal pension age, and

Y is the amount specified in paragraph (5).

(5) The amount specified in this paragraph is—

(a) the actual amount of the person's effective reckonable service where—

(i) immediately before the person became incapacitated he was in excluded employment,

(ii) immediately before the person became incapacitated he was paying additional contributions under old regulation C6 or regulation C7, or

(iii) immediately before the person became incapacitated he was in pensionable employment and entitlement to payment of retirement benefits took effect under regulation E4(10) at the same time as he ceased to be in pensionable employment, or

(b) the amount which would have been the person's effective reckonable service if he had remained in pensionable employment until the date on which entitlement to retirement benefits took effect under regulation E4(10) in any other case.

(6) Where the person is a person with mixed service, the effective reckonable service specified in paragraph (4) shall be treated as having occurred after the relevant break of service.

(7) The entitlement to payment of a total incapacity pension and (where applicable) lump sum takes effect on the same day as the entitlement to payment of the retirement pension and lump sum.".

Avoidance of duplicate pensions

26. In regulation E9—

(a) in paragraph (2), in the definition of "C" for "regulation C6 or C7" substitute "old regulation C6 or regulation C7",

(b) after paragraph (5) insert—

"(6) For the purpose of this regulation references to "retirement benefits" are references to such benefits before any actuarial reduction required by regulation E5(6) and (7) or E6(5).".

Allocation of part of retirement pension

27. Omit regulation E11.

Pensioner ceasing to be incapacitated

28.—(1) At the end of the heading to regulation E13 insert "**where application for payment was received before 6th April 2007"**.

(2) In regulation E13(1) after "regulation E4(4)" insert "and where the person's application for payment under regulation E33(2) was received by the Department before 6th April 2007".

(3) After regulation E13 insert—

"Pensioner ceasing to be incapacitated where application for payment was received on or after 6th April 2007

E13A.—(1) This regulation applies where a person is entitled to a payment of a retirement pension by virtue of regulation E4(4) and the person's application for payment was received by the Department on or after 6th April 2007.

(2) Paragraph (4) has effect where the person was entitled to payment of a total incapacity pension under regulation E8A but the person subsequently ceases to satisfy the condition contained in regulation E8A(2)(a).

(3) For the purposes of paragraph (2) a person is treated as having ceased to satisfy the condition in regulation E8A(2)(a) if he takes up any employment unless—

(a) the employment which he takes up is not employment in a capacity specified in Schedule 2 or employment as a teacher in an accepted school.

(b) he provides the Department with a certificate from a registered medical practitioner that in the opinion of the practitioner he still meets the condition, and

(c) the Department determines that he still meets the condition.

(4) Subject to paragraph (5), on that date on which the person ceases to satisfy the condition contained in regulation E8A(2)(a), the total incapacity pension referred to in regulation E8A ceases to be payable.

(5) Where however the person satisfies the requirements of sub-paragraphs (a), (b) and (c) of paragraph (3) but satisfies the requirements of sub-paragraphs (b) and (c) of that paragraph after he has taken up he employment the total incapacity pension is payable again as from the date on which the person took up the employment.

(6) Paragraph (8) has effect where the person subsequently ceases to be incapacitated.

(7) For the purposes of paragraph (6) a person is treated as having ceased to be incapacitated if he takes up employment in a capacity described in Schedule 2 or as a teacher in an accepted school.

(8) On the date on which the person ceases to be incapacitated the person's retirement pension ceases to be payable, but any equivalent pension benefits continue to be payable.

(9) Where paragraph (8) had effect, the retirement pension becomes payable again (subject to paragraph (10) and to regulation E33(2) (application for payment))—

(a) from the date on which the person attains his normal pension age, or

(b) if earlier, from the start of any renewed incapacity.

(10) Paragraph (9) does not apply if the person has been in pensionable employment at any time after he first became entitled to payment of the retirement pension.

(11) If the pension becomes payable again under paragraph (9)(a) it is to be treated for purposes of regulation E14 as one to the payment of which the person has become entitled by virtue of regulation E4(2).".

Abatement of retirement pension during further employment

29. In regulation E14—

(a) for paragraph (1) substitute—

"(1) This regulation applies while a person who has become entitled to payment of a teacher's pension is employed—

(a) in pensionable employment, comparable British service or employment which would have been pensionable but for—

(i) his having made an election under regulation B4 (election for employment not to be pensionable), or

(ii) his having attained the age of 75,

(b) in part-time employment in a capacity described in paragraphs 1 to 6 of Schedule 2 which is not pensionable employment.".

(b) in paragraph (3)(a) for "(C+D-E)" substitute "C+D",

(c) in paragraph (3)(b)—

(i) for the definition of "C" substitute the following—

"C is the salary of reference determined in accordance with paragraph (3A), (3B) or (3C) ",

(ii) in the definition of "D" for "the pension" substitute—

"(i) where the salary of reference is determined in accordance with paragraph (3A), the pension, and

(ii) where the salary of reference is determined in accordance with paragraph (3B), the last day of employment at that salary.",

(iii) omit the definition of "E",

(d) after paragraph (3) insert the following—

"(3A) The salary of reference for a person whose most recent entitlement to payment of a teacher's pension arose before 1st April 2007 is, or where his previous employment was part-time, is the full-time equivalent of, the highest annual rate of contributable salary that was payable to the person during the 3 years ending immediately before he became entitled to payment of the pension, or, if applicable, the highest annual rate of contributable salary that was payable to him during the 3 years ending immediately before he ceased to be employed in any pensionable employment entered into by him after he became entitled to payment of the pension, whichever is greater.

(3B) The salary of reference for a person whose most recent entitlement to payment of a retirement pension arises on or after 1st April 2009 is —

(a) where the person's average salary was the amount specified in regulation E31(2)(a), the highest annual rate of contributable salary that was payable to him during the 365 days ending immediately before he became entitled to payment of the pension, or, if applicable, the highest rate of contributable salary that was payable to him during the 365 days ending immediately before he ceased to be employed in any pensionable employment entered into by him after he became entitled to payment of the pension, whichever is the greater, and

(b) where the person's average salary was the amount specified in regulation E31(2)(b) or (2A), the highest annual rate of contributable salary that was payable to him during his average salary service or, if applicable, the highest rate of contributable salary that was payable to him during any period of pensionable employment entered into by him after he became entitled to payment of pension, whichever is the greater.

or, in either case, where the previous employment was part-time, the full-time equivalent of such salary.

(3C) The salary of reference for a person whose most recent entitlement to payment of a retirement pension arises on or after 1st April 2007 but before 1st April 2009 is the salary referred to in paragraph (3A) or (3B) whichever is the higher.".

Retirement benefits on cessation of further employment

30. In regulation E15—

(a) in paragraph (2) after "E8 (enhancement of retirement benefits in case of incapacity)" insert "or if a total incapacity pension has not been paid under regulation E8A",

(b) in paragraph (4) after "regulation E8" insert "or if a total incapacity pension has been paid under regulation E8A".

Death grant

31. In regulation E20—

(a) in paragraph (1)(b) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7",

(b) for paragraph (2) substitute—

"(2) The amount of death grant payable under paragraph (1) shall be—

(a) in the case of a death occurring on or after 2nd November 1998 but before 1st April 2007, twice his average salary, or

(b) in the case of a death occurring on or after 1st April 2007, three times his average salary.".

(c) in paragraph (6)(b) after "surviving civil partner" insert ", surviving nominated partner",

(d) for paragraph (7)(a) substitute—

"(a) if the deceased is survived by one widow, a widower, a surviving civil partner or a surviving nominated partner, to that person,",

(e) in paragraph (7)(c) for "or surviving civil partner" substitute ", surviving civil partner or surviving nominated partner".

Supplementary death grant

32. In regulation E21—

(a) in paragraph (2) for sub-paragraphs(a) and (b) substitute—

"(a) the person became entitled to retirement benefits before 1st April 2007,

(b) at least 10 years' reckonable service was taken into account in calculating the person's retirement benefits, and

(c) the total of the amounts paid in respect of them is less than his average salary,",

(b) in paragraph (3) for sub-paragraphs (a) and (b) substitute—

"(a) the person's entitlement to retirement benefits takes effect before 1st April 2007,

(b) less than 10 years' reckonable service was taken into account in calculating the person's retirement benefits, and

(c) the amount paid in respect of his retirement pension is less than 5 times the annual rate at which it was payable when he died,"

(c) after paragraph (3) insert—

"(3A) If—

(a) the person's entitlement to retirement benefits takes effect on or after 1st April 2007, and

(b) the amount paid in respect of his retirement pension is less than 5 times the annual rate at which it was payable when he died,

a supplementary death grant equal to that deficiency may be paid.".

(d) for paragraph (6)(a) substitute—

"(a) if the deceased is survived by one widow, a widower, a surviving civil partner or a surviving nominated partner, to that person,",

(e) in paragraph (6)(c) for "or surviving civil partner" substitute ", surviving civil partner or surviving nominated partner".

Family benefits generally

33. In regulation E22—

(a) in paragraph (1) after "surviving civil partners," insert "surviving nominated partners",

(b) in paragraph (2)(a) and (b) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7".

Nomination of partner

34. After regulation E22 insert—

"Nomination of partner

E22A.—(1) A person (A) may nominate another person (B) to receive a pension by giving to the Department a declaration signed by both A and B that the condition in paragraph (2) has been satisfied for a continuous period of at least 2 years which includes the day on which the declaration is signed.

(2) The condition is that—

(a) A is able to marry, or form a civil partnership with, B,

(b) A and B are living together as if they were husband and wife or as if they were civil partners,

(c) neither A nor B is living with a third person as if they were husband and wife or as if they were civil partners, and

(d) either B is financially dependent on A or A and B are financially interdependent.

(3) But a nomination has no effect if the condition in paragraph (2) has not been satisfied for a continuous period of at least 2 years which includes the day on which the declaration is signed.

(4) A nomination ceases to have effect if—

(a) either A or B gives written notice of revocation to the Department,

(b) A makes a subsequent nomination under this regulation,

(c) either A or B marries, forms a civil partnership or lives with a third person as if they were husband and wife or as if they were civil partners, or

(d) B dies.

(5) B is A's surviving nominated partner if—

(a) the nomination has effect at the date of A's death, and

(b) B satisfies the Department that the condition in paragraph (2) was satisfied for a continuous period of at least 2 years immediately prior to A's death.

(6) 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.".

Nomination of other adult beneficiary

35.—(1) For the heading to regulation E23 substitute "**Nomination of other adult beneficiary**".

(2) In regulation E23—

(a) in paragraph (2) after "a previous nomination under this regulation" insert "or regulation E22A",

(b) in paragraph (4)(b) after "appointor" insert "makes a nomination under regulation E22A,".

Entitlement to short-term family benefits

36. In regulation E24—

(a) in paragraph (1)(b) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7",

(b) for paragraph 2)(a) substitute—

"(a) subject to paragraph (4), to the deceased's surviving spouse, surviving civil partner, surviving nominated partner or, where the conditions in regulation E26(6) are satisfied, his nominated beneficiary, and",

(c) omit paragraph (4)(b),

(d) in paragraph (4)(c) after "surviving civil partner," insert "surviving nominated partner,".

Amount and duration of short-term family benefits

37. In regulation E25—

(a) in paragraph (2) for "surviving spouse or surviving civil partner", in both places, substitute "surviving spouse, surviving civil partner or surviving nominated partner",

(b) in paragraph (3) and the Table for "spouse, civil partner", in both places, substitute "surviving spouse, surviving civil partner, surviving nominated partner".

Entitlement to long-term family benefits

38. In regulation E26—

(a) in paragraph (3) after "his surviving civil partner" insert ", his surviving nominated partner",

(b) in paragraph (5)(b) after "the deceased" insert "and was not living with someone as if they were husband and wife or as if they were civil partners",

(c) after paragraph (7) insert—

"(8) 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.".

Relevant service

39. In regulation E27—

(a) in paragraph (1)(b) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7",

(b) in paragraph (1)(c) for "regulation C3 or C5(1)" substitute "Schedule 4 or 5",

(c) in paragraph (2)(a) for "paragraph (1)(a), (b) and (d)" substitute "paragraph (1)(a) and (b)",

(d) in paragraph (2)(b) for "regulation C3" substitute "Schedule 4",

(e) in paragraph (2)(c) omit "and",

(f) in paragraph (2)(d)—

(i) for "transfer value offered in respect of him" substitute "transfer value (other than one mentioned in sub-paragraph (e)) offered in respect of her", and

(ii) for "receipt of the transfer value." substitute "receipt of the transfer value, and",

(g) after paragraph (2)(d) insert—

"(e) where a transfer value has been accepted in respect of comparable British service—

(i) any period which consists of, or is attributable to, service after 5th April 1988, and

(ii) any other period which would, immediately before its acceptance, have counted in the relevant pension scheme for the payment of a pension to the deceased's widower.",

(h) in paragraph (2A)(b) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7",

(i) in paragraph (2A)(c) for "regulation C3 or C4" substitute "Schedule 4 or 5",

(j) for paragraph (2A)(e) substitute—

"(e) where a transfer value has been accepted in respect of comparable British service—

(i) any period which consists of, or is attributable to, service after 5th April 1988, and

(ii) any other period which would, immediately before its acceptance, have counted in the relevant pension scheme for the payment of a pension to the deceased's surviving civil partner, and",

(k) after paragraph (2A) insert—

"(2B) Where the deceased is survived by a surviving nominated partner, the deceased's relevant service comprises, subject to paragraph (3)—

(a) any period of pensionable employment after 31st March 2007,

(b) any period beginning after 31st March 2007 in respect of which additional contributions have been paid under old regulation C6 or regulation C7,

(c) any period of reckonable service in respect of which family benefit contributions have been paid under Part IIB of Schedule 6 or are treated as having been paid under Part III of Schedule 6 in respect of an election made under Part IIB,

(d) where a transfer value has been accepted in respect of comparable British service, any period which consists of, or is attributable to, service which would, immediately before its acceptance, have counted in the relevant pension scheme for the payment of a pension to a person (other than the deceased's surviving spouse or surviving civil partner) with whom at the date of his death the deceased was living as if they were husband and wife or as if they were civil partners, and

(e) where the deceased entered pensionable employment after 31st March 2007 and a transfer value (other than one mentioned in sub-paragraph (d)) has been accepted, any period counting as reckonable service by virtue of the acceptance of the transfer value.",

(l) after paragraph (3) insert—

"(4) 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.".

Amount of surviving spouse's, surviving civil partner's or nominated beneficiary's long-term pension

40.—(1) For the heading to regulation E28 substitute "**Amount of surviving spouse's, surviving civil partner's, surviving nominated partner's or nominated beneficiary's long-term pension".**

(2) In regulation E28—

(a) in paragraph (1) after "surviving civil partner" insert ", surviving nominated partner",

(b) in paragraph (2A) after "surviving civil partner" insert ", surviving nominated partner",

(c) in paragraph (6)(b) for "regulation C3" substitute "Schedule 4",

(d) after paragraph (6) (d) insert—

"(e) any period beginning after that date for which contributions have been paid under old regulation C6 or regulation C7.",

(e) after paragraph (7A) insert—

"(7B) If the pension is payable to a surviving nominated partner, the deceased's family benefit service, subject to paragraphs (3) and (8) to (10), comprises the relevant service described in regulation E27(2B).",

(f) in paragraph (8)(b) for "regulation C6 or 7" substitute "old regulation C6 or regulation C7",

(g) in paragraph (9) for "paragraphs (3) to (5), (7) and (7A)", in both places, substitute "paragraphs (3) to (5) and (7) to (7B)".

Amount of children's long-term pensions

41. In regulation E29—

(a) in paragraph (1)(a) after "surviving civil partner" insert ", surviving nominated partner",

(b) for paragraph (1A) substitute—

"(1A) Where an adult pension is payable to the surviving civil partner of a man, to the surviving civil partner of a woman whose nomination under regulation E23 ceased to have effect when she formed a civil partnership or to a surviving nominated partner, the annual rate of the children's pension is the appropriate fraction of the deceased's average salary

multiplied by the sum of the notional family benefit service and the additional family benefit period.",

(c) in paragraph (8)—

(i) after "family benefit contributions have been paid" insert "(where the adult pension is paid to a surviving civil partner)", and

(d) after "made under Part IIA" insert "or (where the adult pension is paid to a surviving nominated partner) under Part IIB of Schedule 6 or are treated as having been paid under Part III of Schedule 6 in respect of an election made under Part IIB".

Additional dependant's pension where election made under regulation C2A

42. After regulation E29 insert—

" Additional dependant's pension where election made under regulation C2A

E29A.—(1) Where an election (other than one which has ceased to have effect) was made under paragraph 5(b) or 12(b) of Schedule 2A by, or in respect of, the deceased, the annual rate of the pension referred to in regulation E25(1), E28(1), E29(1) and E29(1A) must be increased by half the additional pension.

(2) The additional pension is the annual rate with which the deceased had been credited, increased as specified in regulation E5A(3)".

Commencement and duration of long-term family pensions

43. In regulation E30—

(a) in paragraph (1) after "surviving civil partner" insert ", surviving nominated partner",

(b) in paragraph (3A) after "does not apply" insert "to any pension payable following the death of a person who was in pensionable employment after 31st March 2007 or who was paying or had paid additional contributions under old regulation C6 or regulation C7 in respect of a period after that date or".

Average salary

44. In regulation E31—

(a) for paragraphs (1) and (2) substitute—

"(1) A person's average salary is either that specified in paragraph (2) or calculated in accordance with regulation E31A.

(2) Where—

(a) the person's full salary in the last 365 days of his average salary service is greater than the salary determined under regulation E31A(3), or

(b) the person has an average salary service of 365 days or less,

the person's average salary is (subject to paragraph (11)) his full salary in the last 365 days of his average salary service.

(2A) Where the salary determined under regulation E31A(3) is greater than the person's full salary in the last 365 days of his average salary service the person's average salary is that specified in regulation E31A.".

(b) omit paragraph (4),

(c) for paragraph (5) substitute the following—

"(5) For the purposes of paragraphs (2) and (2A) periods when the person was not in pensionable employment shall be disregarded and accordingly the periods of 365 days and 1095 days referred to in paragraphs (2) and (2A) may be discontinuous.",

(d) in paragraph (6) omit "(2)",

(e) in paragraph (7)(b) for "regulation C6 or, as the case may be, C7" substitute "old regulation C6 or, as the case may be, regulation C7",

(f) after paragraph (10) insert the following—

"(11) Subject to paragraph (12), where at any time during the last 1095 days of his average salary service a person to whom this paragraph applies has received an increase in his contributable salary such that—

(B/A – 1) x 100 – C – 10

is greater than zero where—

A is the person's salary before the increase,

B is the person's salary after the increase, and

C is the standard increase of salary (expressed as a percentage),

the person is treated as having received an increase in his contributable salary such that his salary after the increase is—

A (1+ ((C+10)/100))

unless an election is made under regulation G7(2) to pay the additional contribution referred to in that regulation.

(12) Paragraph (11) does not apply —

(a) in relation to a person who becomes entitled to the payment of retirement benefits by virtue of regulation E4(4),

(b) for the purpose of calculating—

(i) a death grant under regulation E20, or

(ii) a pension payable under regulation E28 (amount of surviving spouses', surviving civil partner's, surviving nominated partner's or nominated beneficiary's long-term pensions) in relation to a person who died while in pensionable employment, or

(c) to any increase in contributable salary which was received while the person was employed by an employer other than the body which was the person's employer immediately before he became entitled to the payment of retirement benefits.

(13) For the purposes of paragraph (11), paragraph (12) and this paragraph—

(a) where the person receives more than one increase in salary in a financial year the increases taken together shall be treated as one increase and accordingly, in paragraph (11), A is the person's salary before the first increase and B is the person's salary after the last increase,

(b) the material date is the date on which the increase of salary took effect,

(c) the standard increase of salary is the average percentage of the increases, if any, that would have been received on the material date by persons (the comparable employees") who were employed at the school or institution where the person in question was employed and whose circumstances corresponded, most closely to those of that person or, if there were no comparable employees, by persons so employed as teachers (as the case may be) would have received no increases on that date, the next increases they would have received.

(14) For the purposes of this regulation, in computing periods consisting of numbers of days, no account shall be taken of a leap year day (29th February) except as provided by paragraph (15).

(15) Where however a person's average salary service ends in a leap year on or after the leap year day that leap year day shall be included in the period of 365 days referred to in paragraph (2).

(16) Where an election under regulation G7 is made after the person becomes entitled to payment of retirement benefits the person is, until the date on which the election is received by the Department, entitled to retirement benefits calculated on the basis only of the contributable salary he is treated as receiving in the absence of such an election and accordingly as from the date on which the election is received by the Department becomes entitled to—

(a) a lump sum payment (where regulation E6 applies to the person) equal to the difference between the retirement lump sum to which the person is entitled taking into account the election and the retirement lump sum previously paid to the person; and

(b) a retirement pension taking into account the election.".

45. After regulation E31 insert—

"Average salary – supplemental

E31A.—(1) This regulation has effect for the purpose of determining a person's salary where regulation E31(2A) applies ("the alternative average salary").

(2) In this regulation "salary period" is each period in which the person's salary rate is unchanged.

(3) The average of the person's full salary for the best consecutive 1095 days of average salary service (increased as specified in paragraph (4)) during the period of 10 years ending on the last day of the person's average salary service shall first be determined.

(4) For the purposes of paragraph (3) the person's full salary for each salary period is increased by the amount (if any) by which, immediately before the end of the person's average salary service, it would have increased if it had been the annual rate of an official pension within the meaning of section 5(1) of the Pensions (Increase) Act (Northern Ireland) 1971(**a**) beginning, and first qualifying for increases under that Act, on the same day as the salary period ended.

(5) The alternative average salary is the average of the actual full salary for the 1095 days which, resulting from and in accordance with the determination under paragraph (3), are the best consecutive 1095 days of average salary service, multiplied by A/B.

(6) "A" in paragraph (5) is the annual rate of retirement pension to which the person would have been entitled by virtue of these Regulations if—

(a) in calculating the person's full salary for each salary period the person's full salary for that period had in fact been increased as specified in paragraph (4), and

(b) the Pensions (Increase) Act (Northern Ireland) 1971 did not apply.

(7) "B" in paragraph (5) is the annual rate of retirement pension to which the person would have been entitled by virtue of the combined effect of these Regulations and the increase effected by the Pensions (Increase) Act (Northern Ireland) 1971 up to the last day of the person's average salary service, if the person's average salary had been the amount determined under paragraph (5) without the multiplication by A/B.

(8) For the purposes of paragraph (3) periods when the person was not in pensionable employment shall be disregarded, except in relation to the period of 10 years, and accordingly the 1095 days referred to in paragraphs (3) and (5) may be discontinuous.

(9) In computing the period of 1095 days referred to in paragraphs (3) and (5) no account shall be taken of a leap year day (29th February).

(10) Where however a person's average salary service ends in a year on or after the leap year day that leap year day shall be included in the period of 1095 days referred to in paragraphs (3) and (5).

(**a**) 1971 c. 35 (N.I.) to which there are amendments not relevant to this regulation.

(11) In this regulation "full salary" has the same meaning as in regulation E31.".

Effective reckonable service

46. In regulation E32—

(a) omit paragraph (2)(b),

(b) in paragraph (4) for "the age of 60" substitute "the normal pension age".

Payment of benefits

47. In regulation E33—

(a) after paragraph (2) insert—

"(2A) Where the application for payment is made on the basis that the person is entitled to retirement benefits under regulation E4(4) or (5)(incapacity), the application shall—

(a) where the person falls within regulation E4(5)(c)(i)(aa) or (bb), be signed by, or on behalf of, the person's employer, and

(b) shall be accompanied by all medical evidence necessary to determine whether the person falls within regulation E4(4) or (5) and, where applicable, that the person's ability to carry out any work is impaired by more than 90% and is likely permanently to be so.".

(b) In paragraph (3) after "any relevant information" insert "(including medical evidence such as is mentioned in paragraph (2A))".

Benefits not assignable

48. In regulation E34(2) omit "An allocation under regulation E11 is not an assignment, and".

Payment of transfer values

49. In regulation F1(4)(b) after "his 60th birthday" insert "in the case of a pre-1st April 2007 entrant or his 65th birthday in any other case".

Acceptance of transfer values

50. In regulation F4(7)(b) after "his 60th birthday" insert "in the case of a pre-1st April 2007 entrant or his 65th birthday in any other case".

Receipts etc. to be credited

51. In regulation G2—

(a) in paragraph (2)(a) for "regulations C2(1), C3, C4, C5, and C8" substitute "regulations C2(1), C2A, C11 and Schedules 4 and 5",

(b) in paragraph (2)(b) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7".

Employers' Contributions

52. For regulation G5 substitute—

"Employers' contributions

G5.—(1) In this regulation—

(a) "relevant period" is to be construed in accordance with regulation G4(3),

(b) the "net contribution rate" for any relevant period is the aggregate of the percentage specified for that period under regulation G4(3) and any percentage specified for that period under regulation G4(7) less any percentage specified for that period under regulation G4(8).

(2) The employer of a person in pensionable employment is, during every relevant period, to pay contributions of the required percentage of the person's contributable salary for the time being.

(3) The required percentage for the relevant period starting on 1st April 2007 is 13.6%.

(4) The required percentage for subsequent relevant periods shall be A-X, where A is the net contribution rate as defined in paragraph (1)(b) and X is the percentage determined in accordance with regulation C2.

(5) No contributions are to be paid in respect of any person to whom regulation E32(2)(a) (restriction of reckonable service to 45 years) has become applicable.".

Employers' additional contributions

53. After regulation G6 insert—

"Employers additional contributions

G7.—(1) Where a person receives an increase in contributable salary as is mentioned in regulation E31(11), the person's last employer before he became entitled to payment of retirement benefits ("the former employer") may make an election under paragraph (2).

(2) An election under this paragraph is an election to pay an additional contribution of

A-B-C

where—

A is the actuarial value of the retirement benefits to which the person would be entitled calculated by reference to the salary he received,

B is the actuarial value of the retirement benefits to which the person would be entitled if he was treated as receiving the increase in his contributable salary referred to in regulation E31(11), and

C is the aggregate of contributions which would be repaid under regulation H6A if no election had been made.

(3) An election under paragraph (2) may be made by giving written notice to the Department no later than six weeks beginning with the date on which the person became entitled to payment of retirement benefits.

(4) Where an election is made under paragraph (2) the payment to the Department under the election shall be made within 14 days beginning with the date of the election.

(5) If the full amount of payment under the election under paragraph 2) is not received by the end of the period referred to in paragraph (4), interest is payable by the former employer on the amount outstanding at 12% per annum compounded with monthly rests from the day after the end of the period referred to in paragraph (4) to the date of payment.".

Modified application in case of employment at reduced salary

54. In regulation H1(1)—

(a) for sub-paragraph (a) substitute—

"(a) a person who has been in pensionable employment either—

(i) continues to be employed by the same employer at a reduced rate of contributable salary, where the reduced rate of contributable salary had effect before 1st April 2007, or

(ii) ceases to be employed before 1st April 2007 and is re-employed before 1st May 2007 (whether by the same or a different employer) as a reduced rate of contributable salary, and",

(b) for sub-paragraph (d) substitute—

"(d) the relevant employer notifies the Department in writing of the matters specified in paragraph (2) before 1st June 2007.".

Declaration where lump sum payments are made

55. After regulation H4 insert—

"Declaration where lump sum payments are made

H4A.—(1) The Department may, before paying any lump sum under regulations E4A, E6, E6A, E19A, I3 or I5A 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 Department.

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

(3) Where no such declaration is received by the Department by the date referred to in paragraph (1) —

(a) where the payment in question would otherwise have been a lump sum under regulation E4A, E6A, or I5A, the Department may treat the election under regulation E4A, E6A or I5A as being of no effect,

(b) where the payment in question would otherwise have been a lump sum under regulation E6, E31(16) or I3, the Department may, in place of the lump sum, pay an additional pension representing the value of the lump sum,

(c) where the payment in question would otherwise have been a lump sum under regulation E19A, the Department need not pay the lump sum.

(4) The amount of the additional pension referred to in paragraph (3)(b) shall be determined by the Department after taking advice from the Government Actuary.

Repayment of contributions where an election is not made under regulation G7

H4B.—(1) This regulation applies where—

(a) a person receives an increase in contributable salary as is mentioned in regulation E31(11), but

(b) no election under regulation G7(2) has been made.

(2) Where this regulation applies the Department shall repay—

(a) to the person who was in pensionable employment a sum equivalent to A-B, and

(b) to that person's last employer before he became entitled to retirement benefits a sum equivalent to C-D.

(3) In paragraph (2)—

A is the aggregate of the contributions paid by the person under regulation C2 or C8 or Schedule 4 or 5,

B is the aggregate of the contributions which would have been paid under regulation C2 or C8 or Schedule 4 or 5 during the relevant period if the person had actually received the salary which he was treated as having received under regulation E31(11),

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

C is the aggregate of the contributions paid by the person's employer under regulation G5 during the relevant period, and

D is the aggregate of the contributions which would have been paid by the person's employer under regulation G5 during the relevant period if the person had actually received the salary which he was treated as having received under regulation E31(11)

and in this paragraph the "relevant period" is the period which started when the person received the increase in contributable salary as mentioned in regulation E31(11) and ended when the person became entitled to the payment of retirement benefits.".

Pension sharing – normal pension age

56. After regulation I2 insert—

"**Normal Pension Age**

I2A.—(1) For the purposes of this Part a pension credit member's normal pension age is, subject to paragraph (2), the normal pension age of the corresponding debit member.

(2) Where—

(a) the corresponding debit member is a person with mixed service, and

(b) at the time when the relevant arrangement referred to in Article 25 of the 1999 Order(**a**) took effect the corresponding debit member had not ceased to be a pre-1st April 2007 entrant by virtue of regulation EA1(4),

the pension credit member's normal pension age shall be 60.".

Pension credit benefits

57. In regulation I3—

(a) in paragraph (1) after "shall consist of a pension and" insert "(where paragraph (3) applies)",

(b) after paragraph (2) insert —

"(2A) Paragraph (3) applies where the pension credit member's normal pension age is 60.",

(c) at the beginning of paragraph (3) insert "Where this paragraph applies,",

(d) in paragraph (5) for "the age of 60" substitute "the normal pension age".

Commutation

58. In regulation I4(1) and (2) for "the age of 60" substitute "the normal pension age".

59. After regulation I(4) insert—

"Commutation on election by pension credit member

I4A.—(1) A pension credit member may, by an election made with the application for payment under regulation E33(2), elect to receive a further lump sum of such amount as is specified in the election (subject to paragraph (2)) in place of part of his pension.

(2) The amount of such lump sum must be a multiple of £12 and cannot exceed—

(a) in the case of a pension credit member with a normal pension age of 65, his permitted maximum, and

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(**a**) The Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(b) in the case of a pension credit member with a normal pension age of 60, his permitted maximum less the lump sum paid under regulation I3(3).

(3) Where a lump sum is paid under this regulation the annual rate of the pension credit member's pension is reduced by £1 for every £12 of lump sum.".

Death grant

60. In regulation I6(3)(a), (3)(b) and (4)(b) for "the age of 60" substitute "the normal pension age".

Glossary of expressions

61. In Schedule 1—

(a) Insert the following definitions at the appropriate place in alphabetical order—

""Appropriate factor"	A factor from time to time specified in relation to the age of a person by the Department after taking advice from the Government Actuary, and different factors may be specified— (a) for persons with a normal pension age of 60, for persons with a normal pension age of 65, and (b) for different provisions of these Regulations.,
"Career break"	A period when, with the agreement of the person's former employer, the person is not in pensionable employment but expects to return to employment with the same employer and during which the person does not take up any other employment
"1st April 2007 or later entrant"	Construe in accordance with regulation EA1(9)
"Normal pension age"	Construe in accordance with regulation EA1(10) or, where applicable regulation I2A
"Old regulation C3"	Regulation C3 as it had effect immediately before 1st April 2007
"Old regulation C4" and "old regulation C6"	Regulation C4 or C6 as it had effect immediately before 1st April 2007 and as it has effect on and after that date by virtue of paragraph 7 or 8 of Schedule 5 to the Teachers' Pensions etc. (Reform Amendments) Regulations (Northern Ireland) 2007
"Permitted maximum"	Construe in accordance with paragraph 2 of Schedule 29 to the Finance Act 2004(**a**)
"Person with mixed service"	Construe in accordance with regulation EA1(8)
"Phased retirement benefits"	Construe in accordance with regulation E4A(1)
"Post-break employment start"	Construe in accordance with regulation EA1(7)
"Pre-1st April 2007 entrant"	Construe in accordance with regulation EA1(2)
"Relevant break of service"	Construe in accordance with regulation EA1(5)
"Retail prices index"	The index of retail prices published by the Office for National Statistics
"Surviving nominated partner"	Construe in accordance with regulation E22A(6)",

(**a**) 2004 c.12.

(b) for the definition of "retirement lump sum" substitute—

""Retirement lump sum"	A retirement lump sum payable under Part E (including any retirement lump sum paid as part of phased retirement benefits).",

(c) for the definition of "retirement pension" substitute—

""Retirement pension"	A retirement pension payable under Part E including— (a) any retirement pension paid as part of phased retirement benefits, and (b) except in regulation E13A, a total incapacity pension paid pursuant to regulation E8A",

(d) at the end of the definition of "average salary" insert "or, where applicable, regulation E31A",

(e) for paragraph (a)(i) and (ii) of the definition of "entitled" substitute—

"(i) has not yet attained the normal pension age, or

(ii) regardless of his age has ceased to be in further employment in circumstances where regulation E15A applies, and",

(f) for paragraph (b) of the definition of "excluded employment" substitute—

"(b) being in part-time employment—

(i) has not made an election pursuant to regulation B1(4), where such an election is required pursuant to that paragraph for part-time employment to be pensionable, or

(ii) is at the same time in full-time employment.".

Elections in respect of additional benefits

62. After Schedule 2 insert as Schedule 2A the Schedule set out as Schedule 4 to these Regulations.

Maximum length of additional periods

63. In Schedule 3—

(a) omit paragraphs 1 and 2,

(b) in paragraph 3 before "regulation C3" insert "old".

Additional contributions for past period under old regulation C3

64. At the end of the heading to Schedule 4 insert "**under old regulation C3**"

65. In Schedule 4—

(a) for the definitions of "the principal election", "the past period" and "the contribution period" substitute—

" "the principal election" means the election under old regulation C3(2);

"the past period" means the period specified in that election pursuant to old regulation C3(9)(a);

"the contribution period" means the period specified in that election pursuant to old regulation C3(9)(c)". ",

(b) in paragraph 1(3) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7",

(c) in paragraph 1(3)(b) before "regulation C6(7)" insert "old",

(d) in paragraph 3 omit "Subject to paragraphs 4 and 5",

(e) omit paragraphs 4 and 5,

(f) in paragraph 6(2) for "such sum as would be payable under Part II" substitute "the actuarial equivalent of the additional contributions that would have been payable",

(g) in paragraph 9(3) for "such amount as would be payable under Part II" substitute "the actuarial equivalent of the additional contributions that would have been payable",

(h) omit paragraph 11,

(i) in paragraph 12—

(i) insert "and" at the end of sub-paragraph (2)(b) and omit "and" at the end of sub-paragraph(2)(c),

(ii) omit sub-paragraph (2)(d).

Additional contributions for past periods under earlier provisions

66. In Schedule 5—

(a) in paragraph 1(1)—

(i) for "Subject to sub-paragraphs (2) to (5) and paragraphs 2 to 4" substitute "Subject to paragraphs 3 and 4"

(ii) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7",

(b) omit paragraphs 1(2) to (5) and 2.

(c) in paragraph 3—

(i) omit "or 2",

(ii) for "regulation C3" substitute "Schedule 4",

(d) omit paragraph 6(3).

Family benefits

67. In Schedule 6—

(a) in paragraph 10(1)(b) for "C3, C5, C6 or C7" substitute "old regulation C6, regulation C7 or Schedule 4 or 5",

(b) for paragraph 12(1) substitute—

"(1) Subject to sub-paragraph (2) and except as otherwise provided in Part III, where payment is to be made by method A, the payment period (in years) is A/B x C, where A is the period (in years) specified under paragraph 11(1)(b), B is the rate specified under paragraph 11(1)(d), and C is the multiplier determined from time to time by the Department (after taking advice from the Government Actuary) for the purpose of this Part.

(1A) The multiplier determined for the purpose of this Part may differ depending on whether the election is made under paragraph 10(1) or 10(2).",

(c) omit Table 5,

(d) in paragraph 12(2)—

(i) omit "("the Table period")", and

(ii) for "in which the Table period ends" substitute "in which that period ends",

(e) for paragraph 12(3) substitute—

"(3) Where payment is to be made by Method B, the lump sum payable, which must be paid within 3 months after its amount is notified by the Department, is A x B x C, where A is the multiplier determined from time to time by the Department (after taking advice from the Government Actuary) for the purpose of this Part, B is the period (in years) in respect of which the election was made, and C is the appropriate amount.",

(f) for paragraph 13B(3) substitute—

"(3) Except as otherwise provided in Part III, the payment period (in years) is A/B x C, where A is the period (in years) specified under paragraph 13A(5), B is the percentage rate specified under paragraph 13A(6), and C is the multiplier determined from time to time by the Department (after taking advice from the Government Actuary) for the purpose of this Part for a person of the same sex as the qualifying person.",

(g) omit Table 5A,

(h) in paragraph 13C(2) for "1.9% if the qualifying person is a man and 1.7% if the qualifying person is a woman" substitute "the multiplier determined from time to time by the Department (after taking advice from the Government Actuary) for the purpose of this Part for a person of the same sex as the qualifying person",

(i) after Part IIA insert—

"PART IIB

CONTRIBUTIONS: SURVIVING NOMINATED PARTNERS

13D.—(1) A person (other than a person who has previously made an election under sub-paragraph (2)) who has nominated a person under regulation E22A is a qualifying person for the purposes of this Part while—

(a) the nomination continues to have effect, and

(b) he is in pensionable employment.

(2) A qualifying person may by giving notice in writing to the Department before the end of the election period elect to pay family benefit contributions attributable to a period of his reckonable service which is not relevant service as mentioned in regulation E27(2B).

(3) An election under sub-paragraph (2) must be accompanied by a declaration signed by the qualifying person that he is in normal health.

(4) If a qualifying person dies before the end of the election period without making an election under sub-paragraph (2), his surviving nominated partner may by giving notice in writing to the Department within 3 months of the qualifying person's death elect to pay family benefit contributions attributable to a period of the qualifying person's reckonable service which is not relevant service as mentioned in regulation E27(2B).

(5) The election period begins on the day on which the qualifying person makes the nomination and ends on the earlier of the day on which—

(a) any election he makes under regulation B4 has effect,

(b) he has been a qualifying person for a period of 6 months in relation to that nomination.

(6) The person who makes an election under this paragraph must specify in the notice the period in respect of which the election is made, which must be either the whole of the qualifying person's reckonable service which is not relevant service as mentioned in regulation E27(2B) or such part of such service as consists of one or more whole years.

(7) Where an election is made under sub-paragraph (2), the qualifying person must state in the notice whether family benefit contributions are to be paid by Method 1 (monthly payments) or by Method II (lump sum) and, if the former, must specify the percentage rate of his contributable salary at which they are to be paid, which must comply with paragraphs 14(2) and (3).

(8) Where a qualifying person's pensionable employment is part-time, for the purpose of specifying (under sub-paragraph (7)) a percentage rate at which family benefit contributions are to be paid or varying (under paragraph 14(4)) that rate, sub-paragraph (7) and paragraph 14(2) have effect as if the reference to the qualifying person's contributable salary were to his full-time equivalent salary.

(9) Except as provided in paragraph 14(4), an election under this paragraph is irrevocable.

13E.—(1) This paragraph applies where—

(a) the qualifying person states under paragraph 13D(7) (in accordance with an election made under paragraph 13D(2)) that family benefit contributions are to be paid by Method 1, and

(b) the payment period exceeds a year.

(2) Where this paragraph applies, except as otherwise provided in Part III, the qualifying person must pay family benefit contributions to the Department by way of monthly payments from his contributable salary at the percentage rate specified under paragraph 13D(7) or, where the rate is varied under paragraph 14(4), at the specified higher rate for the duration of the payment period.

(3) Except as otherwise provided in Part III, the payment period (in years) is A/B x C, where A is the period (in years) specified under paragraph 13D(6), B is the percentage rate specified under paragraph 13D(7), and C is the multiplier determined from time to time by the Department (after taking advice from the Government Actuary) for the purpose of this Part for a person of the same sex as the person nominated under regulation E22A.

(4) Where the payment period would (apart from this sub-paragraph) end on a day other than the last day of a month, the payment period ends with the last day of the month in which it would otherwise end.

13F.—(1) Except where paragraph 13E applies, the person who makes an election under paragraph 13D must pay family benefit contributions to the Department by way of a lump sum calculated in accordance with the Method II formula in sub-paragraph (2) within 3 months of receiving written notice of the amount of the lump sum.

(2) The Method 2 formula is A x B x C,

where—

A is the multiplier determined from time to time by the Department (after taking advice from the Government Actuary) for the purpose of this Part for a person of the same sex as the person nominated under regulation E22A,

B is the period (in years) specified under paragraph 13D(6), and

C is the annual rate of the qualifying person's contributable salary.",

(j) in paragraph 14(1)(c) after "paragraph 13B (Method 1)" insert "or paragraph 13D (Method 1)",

(k) in paragraph 14(3) for "regulation C3 or C5" substitute "Schedule 4 or 5",

(l) in paragraph 14(7) and (11) for "regulation C6 or C7" substitute "old regulation C6 or regulation C7",

(m) in paragraph 15—

(i) in sub-paragraph (2) for "the age of 60" substitute "the normal pension age",

(ii) in sub-paragraph (2)(b) after "his 60th birthday" insert "in the case of a pre-2007 entrant or his 65th birthday in any other case",

(iii) after sub-paragraph (2) insert—

"(2A) But sub-paragraph (2) does not apply in a case to which sub-paragraph (2B) applies.

(2B) This sub-paragraph applies in a case where—

(a) the qualifying person dies before attaining the normal pension age or becomes entitled to payment of retirement benefits by virtue of regulation E4(4),

(b) family benefit contributions were payable by monthly payments under paragraph 13D (Method 1), and

(c) the Department is not satisfied that the declaration under paragraph 13D(3) was made in good faith.",

(iv) in sub-paragraph (3) for "the age of 60" substitute "the normal pension age, or in a case to which sub-paragraph (2B) applies",

(n) in paragraph 16 after "surviving civil partner" insert ", surviving nominated partner".

Modified application in certain cases

68. In Schedule 9—

(a) in paragraph 1 for the definition of "part-time teacher" substitute—

" "part-time teacher" means a person whose part-time employment is pensionable employment;".

(b) in paragraph 16(1) for "regulation C3" substitute "Schedule 4",

Allocation of part of retirement pension

69. Omit Schedule 10.

SCHEDULE 4

Paragraph 60 of Schedule 3

Elections in respect of additional benefits - Schedule to be inserted as Schedule 2A to the Teachers' Superannuation Regulations (Northern Ireland) 1998

Interpretation

1. In this Schedule—

"additional benefits" means—

(a) where the election is an election such as is mentioned in paragraph 5(a) or 12(a), an increased retirement pension, and

(b) where the election is an election such as is mentioned in paragraph 5(b) or 12(b), an increased retirement pension and increased benefits for the person's dependants,

"financial year" means—

(c) the period starting on 1st April 2007 and ending on 31st March 2008, and

(d) each subsequent period of 12 months ending on 31st March.

"monthly contribution election" means an election which, pursuant to paragraph 3(a) states that the additional contributions are to be paid in monthly payments,

"the payment period" has the meaning in paragraph 3(a),

"the start date" in relation to any election means the date on which the first contribution or, as the case may be, the lump sum contribution is received by the Department pursuant to the election.

Election by a person in pensionable employment

2. Paragraphs 3 to 10 apply in relation to an election by a person in pensionable employment pursuant to regulation C2A(1).

3. An election shall state whether the additional contributions—

(a) are to be paid in monthly payments and, if so, the length of the period over which they are to be paid ("the payment period"), or

(b) are to be paid in a single lump sum.

4. The length of the payment period must be such that—

(a) the period ends before the person attains the normal pension age, and

(b) the period does not end on a date which is more than 20 years after the date of the election.

5. An election shall be an election—

(a) to be credited with an increased retirement pension of an amount specified in the election (but subject to paragraphs 7 and 18 to 22), or

(b) to be credited with an increased retirement pension as mentioned in sub-paragraph (a) and with increased benefits for the person's dependants.

6. An election shall contain such further information as may be specified by the Department.

7. The amount of an increased retirement pension specified in the election must be a multiple of such amount as may be specified from time to time by the Department.

8. An election is to contain a declaration by the person making it that he is in normal health.

9. An election only has effect if the Department notifies the person making it in writing that it has been accepted.

10. Where an election has been made, nothing in this Schedule shall prevent further elections being made (but subject to paragraphs 18 to 22).

Election by employer

11. Paragraphs 12 to 16 apply in relation to an election made by an employer under regulation C2A(2).

12. An election shall be an election that additional contributions are to be paid in a single lump sum and shall be an election—

(a) that the person in respect of whom the election is made should be credited with an increased retirement pension of an amount specified in the election (but subject to paragraphs 15 and 18 to 22), or

(b) that the person in respect of whom the election is made should be credited with an increased retirement pension as mentioned in sub-paragraph (a) and with increased benefits for his dependants.

13. An election shall be accompanied by a declaration by the person in respect of whom it is made that he is in normal health.

14. An election shall contain such other information as may be specified from time to time by Department.

15. The amount of increased retirement pension specified in the election must be a multiple of such amount as may be specified from time to time by the Department.

16. An election only has effect if—

(a) it is made with the consent of the person in respect of whom it is made, and

(b) the Department notifies the employer in writing that it has been accepted.

Effect of election

17. Where an election has been accepted by the Department, and has not ceased to have effect, the person in respect of whom the election was made shall, subject to paragraphs 26, 28, 29 to 31, 32(2), 33, 35, and 36(2) be credited with the additional benefits specified in the election.

Maximum amount of increased pension

18. Where the election is the first election made by, or in respect of, a person the maximum amount of increased retirement pension that may be specified in the election is—

(a) where the election is made in the financial year starting on 1st April 2007 and ending on 31st March 2008, £5000,

(b) where the election is made in any subsequent financial year, AxRI/RE rounded to the nearest £100 where—

A is the maximum amount of increased retirement pension for the financial year before the financial year in which the election is made (whether determined under this paragraph or under paragraph 19),

RI is the retail prices index for the month of February in the financial year before the financial year in which the election is made, and

RE is the retail prices index for the month of February in the second financial year before the financial year in which the election is made (or the index for April 2007 where the financial year before the financial year in which the election is made is the period starting on 1st April 2007 and ending on 31st March 2008).

19. The Department of Finance and Personnel shall from time to time review the operation of paragraph 18 and as a result of such review may substitute a different maximum amount of increased pension for the amount determined under paragraph 18.

20. Where an election has previously been made in relation to a person (whether by the person under regulation C2A(1), or by the person's employer under regulation C2A(2)) the maximum amount of increased retirement pension is the amount specified in paragraph 18, or, as the case may be, paragraph 19, less the aggregate of the amounts of increased retirement pensions, multiplied by the factor specified in paragraph 21, specified in previous elections.

21. For the purposes of paragraph 20 the factor is RI/RE where—

RI is the retail prices index for the month of February in the financial year before the financial year in which the new election is made, and

RE is the retail prices index for the month of February in the financial year before the financial year in which the start date in relation to the previous election in question election fell (or the index for April 2007, where the start date in relation to that election fell in the financial year starting on 1st April 2007 and ending on the 31st March 2008).

22. Where a previous election has been revoked the references in paragraph 20 to the amount of an increased retirement pension specified in a previous election shall be taken as the amount of an increased pension with which a person has been credited pursuant to regulation 26.

Determination of contributions for given level of increased pension

23. The Department shall from time to time determine the amount of monthly payments of contributions or lump sum payment of contributions required for any given amount of increased retirement pension and different amounts may be specified—

(a) in relation to different classes or descriptions of persons, and

(b) depending on whether the election is one specified in paragraph 5(a) or 12(a) or in paragraph 5(b) or 12(b),

and, where additional contributions are paid in monthly payments, different amounts may be determined depending on the length of the contribution period.

24. Where the Department has, pursuant to paragraph 23, determined any amount of monthly payments of contributions or lump sum payment of contributions required for any given level of increased retirement pension it may at any time redetermine any of the amounts previously determined, and where any amounts are redetermined during a period when the person is paying monthly contributions the person shall, from 1st April following the date of the redetermination,

pay the monthly payments in accordance with the redetermination but without prejudice to paragraph 25 (revocation of election) or to any right of the person to make a further election.

Revocation of election

25. A person who has made a monthly contribution election may revoke the election before the end of the payment period.

26. Where an election is revoked the person shall be credited with additional benefits of an amount, determined by the Department, having regard to the contributions paid before the revocation.

Election ceasing to have effect

27. An election which states that the additional contributions are to be paid in a single lump sum ceases to have effect if —

(a) the payment of contributions is not received by the Department within one month after the date on which the Department notified the person making the election that the election had been accepted, or

(b) the payment of contributions is received by the Department after the person in respect of whom the election is made attains the normal pension age.

Person ceasing to be in pensionable employment

28.—(1) Where a person who has made a monthly contribution election ceases to be in pensionable employment before the end of the payment period and does not again enter pensionable employment within one month the person may (except where paragraph 29 applies)—

(a) pay to the Department a lump sum of such amount, determined by it, so that he may be credited with the amount of additional benefits specified in the election, or

(b) elect to be credited with an amount of additional benefits, determined by the Department having regard to the contributions paid before he ceased to be in pensionable employment.

(2) Where the lump sum referred to in sub-paragraph (1)(a) is not received by the Department within one month after the date on which the person ceased to be in pensionable employment the person is treated as having elected to be credited with additional benefits under sub-paragraph (1)(b).

Person becoming entitled to retirement benefits

29. Where a person who has made a monthly contribution election becomes entitled to retirement benefits by virtue of regulation E4(7) or (5A) before the end of the payment period the person shall be credited with an amount of additional benefits, determined by the Department, having regard to the contributions paid before he became entitled to retirement benefits.

Person making an election under regulation E4A

30. Where a person who has made a monthly contribution election makes an election under paragraph (11) of regulation E4A (phased retirement) before the end of the payment period the person shall be credited with an amount of additional benefits, determined by the Department, having regard to the contributions paid before the date on which the first payment of additional benefits was made.

Person becoming incapacitated

31. Where a person becomes entitled to payment of retirement benefits by reason of his having become incapacitated within one year after the date on which the election was made—

(a) where the contributions were made by the person pursuant to an election made by him those contributions shall be repaid to the person, and

(b) where contributions were made by the person's employer pursuant by an election made by him those contributions shall be repaid to the employer,

but in either event the person will not be credited with any additional benefits.

32.—(1) Where a person who has made a monthly contribution election becomes entitled to payment of retirement benefits by reason of his having become incapacitated more than one year after the date on which the election was made but before the end of the payment period the person shall nevertheless be credited, pursuant to paragraph 17, with the amount of additional benefits specified in the election unless paragraph (2) applies.

(2) Where a person falls within paragraph (1) but the declaration required by paragraph 8 or 13 was not made in good faith the person shall be credited with an amount of additional benefits determined by the Department, having regard to the contributions paid before the date on which he became entitled to payment of retirement benefits.

Person ceasing to be incapacitated

33.—(1) This paragraph applies where a person has become entitled to payment of retirement benefits by virtue of regulation E4(4) (incapacity) and subsequently ceases to be incapacitated (so that by virtue of regulation E13A(8) the increased retirement pension with which the person was credited pursuant to paragraph 32(1) ceases to be payable).

(2) Where this paragraph applies the person shall be credited with an amount of additional benefits determined by the Department having regard to—

(a) the contributions paid before he became entitled to payment of retirement benefits by virtue of regulation E4(4), and

(b) the contributions which would have been paid during the period when he was entitled to payment of those retirement benefits, if he had continued to pay monthly contributions during that period.

Death of person

34. Paragraphs 35 and 36 apply where the election is an election, pursuant to paragraph 5(b) or (where applicable) paragraph 12(b) for increased benefits to be paid to the person's dependants (as well as for an increased retirement pension).

35. Where the person dies within one year after the date on which the election was made—

(a) where the contributions were made by the person pursuant to an election made by him, those contributions shall be repaid to the person's personal representatives, and

(b) where the contributions were made by the person's employer, pursuant to an election made by him, those contributions shall be repaid to the employer,

but in either event there shall be no credit relating to increased benefits for the person's dependants.

36.—(1) Where the person has made a monthly contribution election and dies more than one year after the date on which the election was accepted, but before the end of the payment period, there shall nevertheless be a credit, pursuant to paragraph 17, relating to increased benefits for the person's dependants as specified in the election, unless paragraph (2) applies.

(2) Where the person falls within paragraph (1) but the declaration required by paragraph 8 or 13 was not made in good faith there shall be a credit relating to increased benefits for the person's dependants of an amount determined by the Department having regard to the contributions paid before the date of the person's death.

Actuarial advice

37. The Department shall take advice from the Government Actuary before determining any amount pursuant to paragraph 23, 24, 26, 28(1), 29, 30, 32(2), 33(2) or 36(2).

SCHEDULE 5

Regulation 3

Transitional Provisions and Savings

PART 1

Transitional Provisions and Savings relating to the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996

1. Any notice given before 1st April 2007 under regulation 12(6) of the Teachers' Superannuation (Additional Voluntary contributions) Regulations (Northern Ireland) 1996 shall be treated as having been given under that regulation as substituted by paragraph 4(d) of Schedule 1.

PART 2

Transitional Provisions and Savings relating to the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991

2. In this Part "the 1991 Compensation Regulations" means the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991.

3.—(1) Regulation 8 of the 1991 Compensation Regulations shall (despite paragraph 2 of Schedule 2) continue to have effect where a declaration was delivered to the compensating authority pursuant to paragraph (2) of that regulation before 1st April 2007.

(2) Where regulation 8 of the 1991 Compensation Regulations continues to have effect, pursuant to paragraph (1), regulation 10(7) of the 1991 Compensation Regulations shall have effect without the amendment made by paragraph 3 of Schedule 2.

PART 3

Transitional Provisions and Savings relating to the Teachers' Superannuation Regulations (Northern Ireland) 1998

4. In this Part "the 1998 Regulations" means the Teachers' Superannuation Regulations (Northern Ireland) 1998.

5. Where, before 1st April 2007, a person over the age of compulsory retirement was in employment which would have been pensionable but for regulation B3(1)(a) of the 1998 Regulations, the amendment made to that provision by paragraph 3(a) of Schedule 3 does not have the effect of making pensionable any employment which occurred before 1st April 2007 but after the person was over the age of compulsory retirement.

6. Paragraphs (10) and (13) of regulation C3 of the 1998 Regulations shall (despite paragraph 8 of Schedule 3) continue to have effect in relation to any election made under that regulation before 1st April 2007.

7.—(1) Regulation C4 of the 1998 Regulations shall (despite paragraph 8 of Schedule 3) continue to have effect in relation to any person who died before 1st April 2007.

(2) Where that regulation continues to have effect—

(a) references in that regulation to regulation C3 shall have effect as references to old regulation C3, and

(b) regulation G2(2)(a) of the 1998 Regulations shall have the effect as if it included a reference to regulation C4.

8.—(1) Regulation C6 of the 1998 Regulations shall (despite paragraph 10 of Schedule 3) continue to have effect in relation to any person who left pensionable employment before 1st April 2007.

(2) Where a person left pensionable employment before 1st April 2007 but has not made an election before that date that regulation shall have effect as if for paragraph (10) there were substituted—

"(10) An election under this regulation must be made by giving written notice to the Department which must specify the period and must be given before 31st May 2007.".

(3) Where regulation C6 of the 1998 Regulations continues to have effect by virtue of sub-paragraph (1)—

(a) paragraph (7) of that regulation shall have effect as if for sub-paragraph (b) there were substituted—

"(b) the percentage is the aggregate of the rate of contributions specified under regulation C2(1) and the required percentage determined in accordance with regulation G5.",

(b) paragraphs 1 and 2 of Schedule 3 to the 1998 Regulations shall continue (despite paragraph 63(a) of Schedule 3) to apply for the purpose of determining the maximum length of the period in respect of which any election may be made.

9.—(1) Regulation E11 of, and Schedule 10 to, the 1998 Regulations shall (despite paragraphs 27 and 69 of Schedule 3), shall continue to have effect where a declaration was delivered to the Department pursuant to regulation E11(4) of the 1998 Regulations before 1st April 2007.

(2) Where the provisions mentioned in sub-paragraph (1) continue to have effect by virtue of that sub-paragraph regulations E14(3) and E34(2) of the 1998 Regulations shall have effect without the amendments made by paragraphs 29(b) and (c)(iii) and 48 respectively.

10.—(1) Regulation E31 of the 1998 Regulations shall continue to have effect without the amendments made by paragraph 44 of Schedule 3 for the purpose of determining the average salary of a person where—

(a) the person's entitlement to payment of retirement benefits took effect before 1st April 2007, or

(b) (where the person does not fall within paragraph (a)) the person ceased to be in pensionable employment before 1st April 2007 and is not at any time in pensionable employment on or after that date before attaining the age of 60.

(2) For the purposes of sub-paragraph (1) a person is to be treated as being in pensionable employment during any period for which he is paying additional contributions under old regulation C6 or regulation C7 of the 1998 Regulations.

(3) Where the entitlement of a person (other than a person falling within paragraph (1)(b)) to payment of retirement benefits took effect on or after 1st April 2007 but before 1st April 2009 the average salary of that person shall be the greater of——

(a) the average salary determined in accordance with regulation E31, or, where applicable, regulation E31A of the 1998 Regulations, and

(b) the average salary determined in accordance with regulation E31 of the 1998 Regulations without the amendments made by paragraph 44 of Schedule 3.

11. Where, before 1st April 2007, a person was in pensionable employment and would, but for regulation E32(2)(b) of the 1998 Regulations have reckonable service in excess of 40 years before attaining the age of 60, the amendment to regulation E32(2) of the 1998 Regulations made by

paragraph 46(a) of Schedule 3 does not have the effect of increasing reckonable service undertaken before 1st April 2007.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Teachers' Superannuation Regulations (Northern Ireland) 1998 and also the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996 and the Teachers (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991.

Schedule 1 contains amendments to the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996. Paragraph 1(b) amends regulation 2 so that "dependant" includes a person in whose favour a nomination under regulation E22A of the Principal Regulations has effect. Paragraph 4 amends regulation 12 so that benefits may be provided from the age of 55 (rather than when a person became entitled to benefits under the Principal Regulations) and to change the options available if the participator dies within five years after the retirement pension commences. The other amendments are consequential on the amendments to the Principal Regulations or are drafting amendments.

Schedule 2 contains amendments to the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991. Paragraph 4 amends regulation 11 so that long-term compensation payable to a survivor is payable for life if the teacher was in pensionable employment after 31 March 2007. The other amendments are consequential on the amendments to the Principal Regulations or are drafting amendments.

The amendments to the Teachers Superannuation Regulations (Northern Ireland) 1998 ("the Principal Regulations") are contained in Schedule 3.

Regulation B1 of the Principal Regulations is amended so that part-time employment is pensionable without the person having to make an election. However, where the person was in part-time employment on 31st March 2007 the employment is not pensionable unless an election is made to this effect. Regulation B1 of the Principal Regulations is also amended to provide that, where a person is in full-time employment and at the same time in part-time employment, the part-time employment is not pensionable. (Paragraph 1(b) and (c) of Schedule 3).

New provisions are also made to allow teachers in independent schools to become members of the Scheme (providing certain conditions are met). (Paragraphs 1(a) and 2 of Schedule 3).

Regulation B3 of the Principal Regulations is amended so that the maximum age at which a person can be in pensionable employment is increased from the age of compulsory retirement (65) to 75. (Paragraph 3(a) of Schedule 3).

A further amendment to Regulation B1 provides that where a person was in such employment on 31st March 2007 the employment is not pensionable unless an election to that effect is made and there are also special provisions relating to persons who go back to employment after retiring on ill health grounds. (Paragraph 3(b) of Schedule 3).

New provisions are made under which members may acquire additional pension benefits. Regulations C3, C4 and C6 of the Principal Regulations which provided for members to be able to purchase added years are omitted. However, where persons are currently making contributions in order to purchase added years they can continue to do so. In place of these provisions the new regulation C2A of, and the new Schedule 2A to, the Principal Regulations provides for persons to be able to elect to pay additional contributions, either as a lump sum or in monthly payments, and in return to receive an increased pension with or without increased benefits for dependants. The new regulation E5A provides for such increased pension; the amount of the pension specified in the election is indexed linked up to the month in which the person becomes entitled to retirement benefits. If the election specifies benefits for dependants the new Regulation E29A provides that

they are at a rate which is half the rate of the increased pension. (Paragraphs 7 – 10, 23, 42 and 61 of Schedule 3, Schedule 4 and paragraphs 6 to 8 of Schedule 5).

Regulation E4 of the Principal Regulations is amended to provide that the minimum age at which a person who is not a "post 5th April 2006 entrant" can be entitled to benefits under regulation E4(7) (redundancy or efficient discharge of employer's functions) is raised from 50 to 55 where the person has not reached the age of 50 before 6th April 2010. (Paragraph 22(e)(ii) of Schedule 3).

New provisions are made for normal pension age in place of the provision that persons are, broadly speaking, entitled to benefits at the age of 60. Where a person enters pensionable employment for the first time on or after 1st April 2007, his normal pension age will be 65. A person who was in employment on 1st April 2007 however retains a normal pension age of 60. If such a person has a break of service of five years or less this will not affect his pension age. However, there are special provisions for a person who has a break of service of five years or more (defined as a person with mixed service). The definitions of "normal pension age" and related terms are contained in the new regulation EA1 of the Principal Regulations and regulation E4 which deals with entitlement to benefits is amended accordingly. (Paragraphs 19 and 22 (a) to (c), (d)(i), e(i) and (f) of Schedule 3).

New provisions are made in Regulation E4 of the Principal Regulations to provide for a new case G. This allows a person to retire and to elect to receive his pension benefits before normal retirement age, known as actuarially reduced benefits. The employer's consent, which cannot be withheld for more than six months from the date on which the teacher notified his employer of his wishes, is required where the teacher is in pensionable or excluded employment at the time of his application. (Paragraph 22 (f).) Regulation 23 amends regulations E5 and E6 of the 1998 Regulations to give effect to the amount of the actuarially reduced pension and lump sum to be paid. (Paragraphs 23 (E5) (6) and (7), and paragraph 23 E6 (4)).

There are related changes to the way in which retirement benefits are calculated. Where a person has a normal pension age of 60 there is no change; the person receives a lump sum and pension calculated by reference to 80ths of the person's average salary. Where, however, the person has a pensionable age of 65 he will receive a pension calculated by reference to 60ths of his average salary but will not receive a lump sum (unless he elects to commute a part of his pension under new regulation E6A described below). Again, there are special provisions for persons with mixed service. (Paragraph 23 of Schedule 3 – the substituted regulations E5 and E6).

Provision is made by the new regulation E4A of the Principal Regulations to allow a person to elect to receive some of his pension benefits without the requirement of having to retire, known as phased retirement benefits. To be eligible, a person needs to have reached the age of 55 and either is to continue in his employment or has secured further employment elsewhere. In both cases, his employer has to certify that he taken a minimum reduction in salary of 25% compared to before he applied for phased retirement benefits. A person can choose to make up to two such elections of his pension benefits before retirement. The amount of phased retirement benefits is calculated as set out in regulation E5 and (where applicable) E6 but taking into account adjustments. The average salary is calculated as the person's average salary immediately before the change in employment and the effective reckonable service is the percentage of the election up to the date of that change. Similar adjustment is made for any additional benefits to be paid as part of the phased retirement benefits.

New provision is made under which, where a person has a normal pension age of 65, and accrues reckonable service after reaching that age, his pension is actuarially enhanced – the substituted regulation E5(9) to (13).

Further changes are made to the provisions relating to the lump sum (regulation E6 of the Principal Regulations). Paragraph (4) of the substituted regulation E6 provides that a person's lump sum cannot exceed his "permitted maximum" defined in Schedule 1 by reference to the Finance Act 2004; paragraph (6) provides that a person aged 75 or over cannot receive a lump sum. The new regulation E6B however provides that where a person is prevented from receiving a lump sum because he is 75 or over he will receive an increased pension.

New regulation E6A of the Principal Regulations contains new provisions whereby a person may elect to receive a further lump sum in place of part of his pension. If such an election is made the annual rate of pension is reduced by £1 for every £12 of lump sum.

New provisions are made for persons who retire on ill health grounds; they apply where the application for retirement benefits was received by the Department on or after 6th April 2007. The existing provisions will continue to apply where the application was received before that date. Under the new provisions, a person who is not in pensionable employment or taking a period of unpaid leave or a career break immediately following pensionable employment is only entitled to benefits if, as well as being incapacitated, his ability to carry out work is impaired by more than 90% and likely permanently to be so (regulation E4(4) Principal Regulations). Where however a person is in pensionable employment or taking unpaid leave or a career break immediately following pensionable employment and is entitled to benefits he will also be entitled to payment of an additional "total incapacity pension" and, where applicable, lump sum if his ability to carry out work is impaired by more than 90% and is likely permanently to be so (new regulation E8A). New regulation E13A provides for a person who ceases to be incapacitated. Where he has received the additional total incapacity pension but the person's ability to carry out work ceases to be impaired by more than 90% the total incapacity pension ceases to be payable. If a person ceases to be incapacitated his retirement pension ceases to be payable. If a person takes up certain types of employment his ability to carry out work is treated as ceasing to be 90% impaired or (as the case may be) he is treated as ceasing to be incapacitated. Regulation E33 is also amended to make explicit provision that an application for ill health retirement pension must be signed by the person's employer and must be accompanied by necessary medical evidence. (Paragraphs 22(d)(ii), 25, 28 and 47(a) of Schedule 3).

Regulation E11 of, and Schedule 10 to, the Principal Regulations, which provide for allocation of part of retirement pension to the provision of alternative benefits is omitted, subject to savings. (Paragraphs 27 and 69 of Schedule 3 and paragraph 9 of Schedule 5).

Regulation E20 (death grant) is amended to provide that where the death occurs on or after 1st April 2007 death grant is three times average salary (Paragraph 31(b) of Schedule 3).

Regulations E20 and E21 are amended to require any death grant or supplementary death grant to be paid, in the absence of another nominee, to a surviving nominated partner (paragraphs 31(d) and 32(d) of Schedule 3).

Provision is made for benefits under the Principal Regulations to be paid to the surviving partner of a member (who is not his surviving spouse or surviving civil partner). New regulation E22A provides for the member to make a nomination and for the circumstances in which the nominee becomes a "surviving nominated partner" who is entitled to benefits (paragraph 34 of Schedule 3).

Regulations E22, E24 to E28 and E30 are amended to provide for short- and long-term pensions to be paid to the surviving nominated partner (paragraphs 33(a), 36(b) and (d), 37, 38(a), 39(k) and (l), 40(2)(a), (b), (e) and (g) and 43(a)) of Schedule 3). The service that counts for the purpose of calculating a surviving nominated partner's pension is specified in new paragraph (7B) of regulation E28; but regulation C8 and Schedule 6 are amended to enable a member to pay family benefit contributions to make periods of his service (which would otherwise not do so) count for the purpose of calculating such a pension (paragraphs 12 and 67(i) of Schedule 3). Regulation E29 is amended to provide for the calculation of long-term pensions payable to children where a pension is payable to a surviving nominated partner (paragraph 41 of Schedule 3).

Regulation E23, which relates to the nomination of close relatives to receive benefits under the Principal Regulations, is given a new heading to avoid confusion with new regulation E22A. Amendments are made to provide that, if a partner is nominated under regulation E22A, any previous nomination made under regulation E23 ceases to have effect and no such nomination may be made while the nomination under regulation E22A is current (paragraph 35 of Schedule 3). Regulation E26 is amended so that a person nominated under regulation E23 does not receive a pension if he is co-habiting at the date of the member's death (paragraph 38(b) and (c) of Schedule 3).

Regulation E27 is amended to clarify the periods of service which count for the purpose of a pension payable to widowers and to surviving civil partners where a transfer value has been accepted in respect of comparable British service (paragraph 39(c), (e), (f), (g) and (j) of Schedule 3).

Regulation E30 is amended so that a pension payable to a survivor is payable for life if the member was in pensionable employment after 31st March 2007 or was paying or had paid additional contributions under old regulation C6 or regulation C7 in respect of that period.

Regulation E31 of the Principal Regulations is amended and regulation E31A inserted to make new provisions for determining a person's average salary on which benefits are calculated. The effect of the amendments, when taken with section 8(2)(a) of the Pensions (Increase) Act (Northern Ireland)1971, is that a person's salary is either the salary in the last 365 days of service or the average of the salary, indexed linked up to the date when the average salary service ended, for the best 1,095 consecutive days of service in the previous ten years. Under transitional provisions, the existing provisions continue to apply where a person's entitlement to benefits took effect before 1st April 2007. Where a person became entitled to benefits on or after 1st April 2007 but before 1st April 2009, the average salary will either be that calculated under the old provisions or that calculated under the new provisions whichever is the higher. There are amendments to introduce a 10% cap on any salary increase in each of the last three years if the last year is the best year and introduces obligations on employers to meet the cost of the additional pension benefits; new provisions also detail the necessary course of action should the employer not meet the additional cost. (Paragraphs 29 (c)(i) and (ii) and (d), 44 and 45 of Schedule 3 and paragraph 10 of Schedule 5).

Regulation E32 (effective reckonable service) of the Principal Regulations is amended so that there is no longer a restriction on reckonable service including service in excess of 40 years before reaching 60. (Paragraph 46(a) of Schedule 3).

Regulation H1 of the Principal Regulations, which provides for modifications where a person is employed at a reduced salary, is amended so that it will only apply (where the person continues to be employed by the same employer) where the reduced rate of contributable salary had effect before 1st April 2007 or (where the person had a break in employment) where the old employment ceased before 1st April 2007 and the new employment started before 1st May 2007. (Paragraph 54 of Schedule 3).

New provisions are made (new regulation H6A of the Principal Regulations) whereby the Department may, before paying a lump sum require a declaration to be made relating to the recycling of the lump sum by the person to whom the payment is to be made. (Paragraph 55 of Schedule 3).

Paragraphs 56 – 60 of Schedule 3 amend Part I of the Principal Regulations (pension sharing). The amendments reflect the change to the normal pension age described above and the new provisions whereby persons can commute part of their pension into a lump sum.

The definition of "appropriate factor" in Schedule 1 to the Principal Regulations, which is the factor by which a pension or lump sum is actuarially reduced in the case of early retirement, is inserted. Under this definition, the "appropriate factor" is determined from time to time by the Department after taking advice from the Government Actuary.(Paragraph 61 of Schedule 3). Parts II and IIA of Schedule 6 are also amended to remove the tables and factors (for the purpose of calculating the cost of making past years service count for pension benefits for survivors) from the Principal Regulations and provide for these to be determined in the same way (paragraph 67(b)-(h) of Schedule 3).

The other amendments to the Principal Regulations are consequential on the matters set out above or are drafting amendments.

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