STATUTORY INSTRUMENTS

1989 No. 378

EDUCATION, ENGLAND AND WALES

The Teachers' Superannuation (Amendment) Regulations 1989

Made - - - -	*7th March 1989*
Laid before Parliament	*10th March 1989*
Coming into force	*1st April 1989*

The Secretary of State, in exercise of the powers conferred by sections 9 and 12 of the Superannuation Act 1972(a) and Schedule 3 thereto, after consulting with representatives of the local education authorities, teachers and other persons likely to be affected in accordance with section 9(5) of the said Act, and with the consent of the Treasury, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Amendment) Regulations 1989, and shall come into force on 1st April 1989, but regulations 2 to 5, 7 to 15, 16(c) and 18 shall have effect as from 1st November 1988.

(2) In these Regulations "the principal Regulations" means the Teachers' Superannuation (Consolidation) Regulations 1988(b) and unless the context otherwise requires expressions which are also used in the principal Regulations have the same meaning as they have in those Regulations.

Salary on which contributions are payable

2. Regulation C1(5) of the principal Regulations is amended–

(a) by deleting the words "of his age, qualifications and experience"; and

(b) by inserting after the words "that section)" the words ", if the material factors were the same; the only material factors are age, qualifications and experience".

Right to repayment of balance of contributions

3. Regulation C10(3)(b) of the principal Regulations is amended by substituting for the words "his contributable salary" the words "the salary on which contributions were payable by him under the 1976 Regulations or under previous provisions".

Return of repaid contributions

4. Regulation C14(8) of the principal Regulations is amended by substituting for the words after "exceed" the following:

"(A – B), where–

A is 9 per cent of the annual rate of the person's contributable salary at the date on which notice of the election is received, and

B is the excess over 6 per cent of that rate of any amounts to be deducted under regulation C16.".

(a) 1972 c.11.
(b) S.I. 1988/1652.

Reckonable service generally

5. Regulation D1(2) of the principal Regulations is amended by substituting for the words from "the length" to "where" the words "each such period counts as–

$$365 \times \frac{A}{B}$$

days of reckonable service, where".

Entitlement to payment of retirement benefits

6. Regulation E4 of the principal Regulations is amended by inserting after paragraph (7) the following:

"(7A) If regulation 4(5) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1989(**a**) (employer to notify for purposes of those Regulations if requested by governing body) applies, the employer must notify the Secretary of State as mentioned in paragraph (7).".

Limitation of retirement benefits

7.—(1) The principal Regulations are amended by substituting for the heading above regulation E7 the following:

"**Limitation of retirement benefits in certain cases**".

(2) Regulation E7 of the principal Regulations is amended–

(a) in paragraph (1), by substituting for the words "This regulation applies" the words "Paragraphs (2) to (5) apply";

(b) in paragraph (3), by substituting for the words "length of time" the words "number of complete years"; and

(c) by inserting after paragraph (5) the following:

"(6) Where additional benefits are payable under a voluntary scheme within the meaning of paragraph 8 of Schedule 23 to the Income and Corporation Taxes Act 1988(**b**) (limitation of benefits where additional voluntary contributions paid), these Regulations have effect as if that paragraph had applied.".

Abatement of retirement pension during further employment

8. Regulation E14(1)(b) of the principal Regulations is amended by substituting for the words ", (c) or (e)" the words "or (c)".

Death grants and supplementary death grants

9. Regulations E19(7) and E20(6) of the principal Regulations are each amended by substituting for the words "Any death grant under this regulation may be paid" the words "Where any death grant is paid under this regulation, it is to be paid".

Duration of short-term family benefits

10. Regulation E24(4)(a)(ii) of the principal Regulations is amended by substituting for the words "2 years' service" the words "5 years' service".

Entitlement to long-term family benefits

11. Regulation E25(4) of the principal Regulations is amended–

(a) by substituting for the words from "who is not" to "have effect" the words "not falling within paragraph (3)", and

(b) in sub-paragraph (d), by substituting for the words ", any period falling within paragraph (3)(e)" the words "and a transfer value offered in respect of him was accepted under regulation F5, any period counting as reckonable service by virtue of the receipt of the transfer value".

(**a**) S.I. 1989/298.
(**b**) 1988 c.1.

Amounts of spouses' and nominated beneficiaries' long-term pensions

12. Regulation E26 of the principal Regulations is amended–

(a) in paragraph (4), by substituting for the words "paragraphs (3) and (5) to (8)" the words "paragraphs (3), (5) and (6) to (8)";

(b) by inserting after paragraph (5) the following:

"(5A) If the pension is payable to a widower not falling within paragraph (4), the deceased's family benefit service comprises, subject to paragraphs (3) and (6) to (8), the relevant service described in regulation E25(4).";

(c) in paragraph (7), by substituting for the words "paragraphs (3) to (5)", in both places where they occur, the words "paragraphs (3) to (5A)"; and

(d) by deleting paragraph (10).

Average salary

13. Regulation E29 of the principal Regulations is amended by substituting for paragraphs (9) and (10) the following:

"(9) In the case of a person to whom on the material date remuneration provisions did not apply, an increase of salary the main object, or one of the main objects, of which was to increase his average salary (and accordingly his retirement benefits) is to be treated as having increased his average salary by no more than the amount by which it would have been increased if he had instead received, on the material date, the standard increase of salary.

(10) The material date is the date on which the increase of salary took effect, remuneration provisions are–

(a) in relation to any time before 1st January 1987, those of the Remuneration of Teachers Act 1965(**a**), and

(b) in relation to any time after 31st December 1986, those of the Teachers' Pay and Conditions Act 1987(**b**),

and the standard increase of salary is the increase, if any, that would have been received on the material date by a person ("the comparable employee") to whom remuneration provisions applied and whose circumstances corresponded most closely to those of the person in question or, if the comparable employee would have received no increase on that date, the next increase he would have received.".

Benefits not assignable

14. Regulation E32(3) of the principal Regulations is amended by substituting for the words "section 156 of the Insolvency Act 1985" the words "section 310 of the Insolvency Act 1986"(**c**).

Receipt of transfer values

15. Regulation F5 of the principal Regulations is amended–

(a) in paragraph (1), by substituting for the words after "scheme managers" the words "of–

(a) an approved superannuation scheme, or

(b) a personal pension scheme, or

(c) a scheme constituting a self-employed pension arrangement

("the previous scheme"), in respect of a person who has entered pensionable employment, may be accepted.";

(b) by inserting after paragraph (1) the following:

"(1A) In paragraph (1) "self-employed pension arrangement" means a personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation Taxes Act (**d**) ("the 1988 Act") which–

(a) is approved by the Commissioners of Inland Revenue under that Chapter, and

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(**a**) 1965 c.3.
(**b**) 1987 c.1.
(**c**) 1986 c.45.
(**d**) 1988 c.1.

(b) is neither a personal pension scheme within the meaning of the Social Security Act 1986(a) nor a contract or scheme approved under Chapter III of Part XIV of the 1988 Act.";

(c) in paragraph (3), by substituting for the words "Unless the employment in which the person was subject to the previous scheme was" the words "Unless while the person was subject to the previous scheme he was employed in";

(d) in paragraph (5)(a), by substituting for the words "the end of the employment in which he was" the words "he ceased to be"; and

(e) in paragraph (6), by substituting for the words "if the employment in which he was subject to the previous scheme was" the words "if while the person was subject to the previous scheme he was employed in".

Glossary of expressions

16. Schedule 1 to the principal Regulations is amended–

(a) by inserting after the entry relating to the expression "Full-time" the following:

""Further education"	The meaning given in section 41(2) of the Education Act 1944."(b);

(b) by inserting after the entry relating to the expression "Guaranteed minimum pension" the following:

""Higher education"	The meaning given in section 120(1) of the Education Reform Act 1988."; and

(c) by inserting in the item relating to the expression "Part-time", after the word "annual" in both places where it occurs, the words ", termly or monthly".

Pensionable employment

17. Schedule 2 to the principal Regulations is amended–

(a) by substituting–

(i) in paragraphs 1 and 25, for the words "establishment of further education", and

(ii) in paragraph 5, for the words "establishment providing further education",

the words "institution providing further education or higher education (or both)"; and

(b) by adding at the end of paragraph 24 the following:

" or

the National Educational Resources Information Service.".

Additional contributions for past period

18. Paragraph 3 of Schedule 4 to the principal Regulations is amended–

(a) by deleting the figures in Table 1 relating to ages greater than 65 and substituting the following:

"66	21.44	10.78	7.23
67	20.91	10.49	
68	20.39";	and	

(b) by deleting the second entry in Table 1 for the age of 64.

Modification of earlier provisions

19.—(1) Regulations 66 and 67 of the 1976 Regulations(c) shall be deemed to have had effect, during the period beginning on 6th April 1988 and ending with 31st October 1988, as if amendments had been made to them corresponding to those made to regulations E25 and E26 of the principal Regulations by regulations 11 and 12 above.

(a) 1986 c.50.

(b) 1944 c.31; section 41 was substituted by the Education Reform Act 1988 (c.40), section 120(2).

(c) S.I. 1976/1987, revoked by S.I. 1988/1652; relevant amendments had been made by S.I. 1988/816, 1374.

(2) Part I of Schedule 2A to the 1976 Regulations shall be deemed to have had effect, during the period beginning on 1st September 1988 and ending with 31st October 1988, as if an amendment had been made to Table 1A corresponding to that made to Table 1 in paragraph 3 of Schedule 4 to the principal Regulations by regulation 18(a) above.

Transitional: elections in respect of protected benefits

20.—(1) 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 in if a provision made by these Regulations ("the relevant provision") had not applied in relation to the protected benefit.

(2) A protected benefit is one which is being paid or may become payable, under the principal Regulations, to or in respect of a person who was employed in pensionable employment but ceased to be so employed, or died, before 1st April 1989.

(3) A person to whom this regulation applies may, by giving written notice to the Secretary of State within 3 months after 1st April 1989, elect that the relevant provision shall not apply in relation to the protected benefit.

Kenneth Baker
3rd March 1989 Secretary of State for Education and Science

We consent,

Stephen Dorrell
Kenneth Carlisle
7th March 1989 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Teachers' Superannuation (Consolidation) Regulations 1988 ("the principal Regulations").

Regulations 2, 3, 5, 7(2)(b), 9, 11, 15(c) to (e) and 16(c) contain minor drafting amendments, regulation 14 corrects a statutory reference, and regulation 18 corrects errors in the table governing the rate of additional contributions paid in order to count a past period as reckonable service.

Regulation 4 substitutes a simpler formula for limiting the annual amount of the instalments by which repaid contributions may be returned to the Secretary of State.

Regulation 6 requires the employer to notify the Secretary of State that employment was terminated by reason of redundancy, etc., where he is obliged to do so under the compensation regulations mentioned.

Regulation 7(2)(c) limits total benefits where there are additional benefits from a voluntary scheme to which no employer contributed; consequential amendments are made by regulation 7(1) and (2)(a).

Regulation 8 excludes part-time employment in an "accepted" independent school or futher education establishment from the categories of further employment that may result in an abatement of pension.

Regulation E24(4) of the principal Regulations increased the duration of short-term family pensions in certain cases where either no long-term pension was payable or less than 2 years' service counted towards a long-term pension. Regulation 10 of these Regulations provides for increased duration where less than 5 years' service counts.

Regulation E26 of the principal Regulations provided for increases, in certain circumstances, in the service counting towards family pensions, but the application of these provisions to pensions payable to widowers was a restricted one. Regulation 12 of these Regulations extends the application to all widowers' pensions.

Regulation 13 clarifies the "standard" salary increase which is to be substituted for an increase intended mainly to increase retirement benefits.

Regulation 15 (a) and (b) extends the categories of scheme from which transfer values may be accepted.

Regulation 17(a) reflects changes in the education system made by the Education Reform Act 1988, and regulation 16(a) and (b) introduces related definitions; regulation 17(b) adds to the categories of employment that are pensionable on election.

Regulation 19 retrospectively modifies certain provisions in the Teachers' Superannuation Regulations 1976 (revoked by the principal Regulations). The modifications, which have effect as from the dates in 1988 on which the provisions were introduced into the 1976 Regulations, correspond to the amendments made to the principal Regulations by regulations 11, 12 and 18(a) of these Regulations.

Section 12 of the Superannuation Act 1972 confers express power to make regulations retrospective in effect. These Regulations are to a large extent retrospective, but regulation 20 makes transitional provision for opting out where rights in relation to ex-employees are adversely affected.

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