STATUTORY INSTRUMENTS

2015 No. 601

EDUCATION, ENGLAND AND WALES

The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015

Made - - - -	*5th March 2015*
Laid before Parliament	*10th March 2015*
Coming into force - -	*1st April 2015*

The Secretary of State for Education makes the following regulations in exercise of the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act 2013(**1**) ("the 2013 Act").

In accordance with section 21(3) of the 2013 Act the Secretary of State has consulted representatives of local authorities, teachers and other persons and representatives of such persons likely to be affected.

In accordance with section 3(5) of the 2013 Act these Regulations are made with the consent of the Treasury.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015 and come into force on 1st April 2015.

Interpretation

2.—(1) In these Regulations—

(a) any expression for which there is an entry in the first column of Schedule 1 to the 2010 Regulations has the meaning given in the second column; and

(b) any expression for which there is an entry in regulation 3 of the 2014 Regulations has the meaning given to it in that regulation.

(**1**) 2013 c. 25.

(2) In these Regulations—

"the 1996 Act" means the Employment Rights Act 1996(**2**);

"the 1998 Act" means the School Standards and Framework Act 1998(**3**);

"the 2002 Act" means the Education Act 2002(**4**);

"the 2010 Regulations" means the Teachers' Pensions Regulations 2010(**5**);

"the 2014 Regulations" means the Teachers' Pension Scheme Regulations 2014(**6**);

"the 2015 scheme" means the scheme established by the 2014 Regulations;

"adult compensation" has the meaning given in regulation 23;

"appropriate person" means—

(a) before 1st September 1999—

(i) in the case of a person employed at a maintained school within the meaning of section 20 of the 1998 Act(**7**) or at a grant-maintained or grant-maintained special school, the local authority;

(ii) in the case of any other employee, the person by whom the employee was employed;

(b) on or after 1st September 1999—

(i) in the case of a person employed at a foundation or voluntary aided school or a foundation special school within the meaning of section 20 of the 1998 Act, the local authority;

(ii) in the case of any other employee, the person by whom the employee was employed;

"compensating authority" is to be construed in accordance with regulation 35 and Schedule 2;

"credited teacher" has the meaning given in regulation 17;

"credited period" has the meaning given in regulation 17;

"deciding authority" is to be construed in accordance with regulation 34 and Schedule 2;

"effective service" has the meaning given in regulation 17(5);

"eligible teacher" has the meaning given in regulation 14(2);

"former employment" in relation to an eligible teacher or a credited teacher means relevant employment in relation to which the conditions in regulation 14(3) are satisfied, and "former employer" means the person who employed the teacher in that employment;

"local authority" has the same meaning as in section 579 of the Education Act 1996(**8**);

"long-term compensation" has the meaning given in regulation 21;

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

"new employment" means employment mentioned in regulation 64A of the 2010 regulations;

(**2**) 1996 c. 18.
(**3**) 1998 c. 31.
(**4**) 2002 c. 32.
(**5**) S.I. 2010/990; amended by S.I. 2011/614, 2012/673, 2012/979, 2012/2270, 2013/275, 2014/424, 2014/560, 2014/2651, 2014/3061 and 2014/3255
(**6**) S.I. 2014/512; amended by S.I. 2014/2652 and S.I. 2014/3255.
(**7**) Section 20 was amended by the Education Act 2002 (c. 32) Schedule 21, paragraph 95; the Education and Inspections Act 2006 (c. 40), Schedule 3, paragraph 13(1), (2) and (3); S.I. 2010/1158; and the School Standards and Organisation (Wales) Act 2013 (anaw. 1), Schedule 5, Part 2, paragraph 19(1) and (2).
(**8**) 1996 c. 56; section 579 was substituted by S.I. 2010/1158.

"notional annual compensation rate" has the meaning given in regulation 15;

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

(a) the redundancy payment to which the person became entitled under the Redundancy Payments Act 1965(**9**) or under Part 11 of the 1996 Act(**10**);

(b) any increase paid by the former employer before 11th August 1983 so that the payment, as increased, corresponded to that which would have been payable had the Redundancy Payments (Local Government) (Modification) Order 1983(**11**) been in force on the material date; and

(c) any compensation which was paid by the former employer under regulation 6 or was of an amount corresponding to that which would have been payable under that regulation if it had been in force on the material date;

"short-term compensation" has the meaning given in regulation 21;

"termination payment" has the meaning given in regulation 28;

"transition member" has the meaning assigned to it by paragraph 20 of Schedule 3 to the 2014 Regulations;

"a week's pay" is to be calculated in accordance with Chapter 2 of Part 14 of the 1996 Act(**12**) but, for the purposes of these Regulations, the calculation date is the date that the person in question ceased to hold the relevant employment in question and that Chapter is to be applied as if section 227(1)(c) of the 1996 Act had been repealed.

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

(4) For the purposes of these Regulations, a grant-maintained or grant-maintained special school is, in respect of any period before 1st September 1999, to be treated as a school maintained by a local authority.

Relevant employment

3.—(1) Subject to paragraph (3), relevant employment is employment falling within paragraphs 1, 2, 4, 6 or 7 of Schedule 2 to the 2010 Regulations or paragraphs 9, 10, 12, 14 or 15 of Schedule 1 to the 2014 Regulations.

(2) Employment is also relevant employment if a person who has made an election under regulation B1A(4) of the Teachers' Pensions Regulations 1997(**13**) remains employed by—

(a) a local authority; or

(**9**) 1965 c. 62; repealed by 1989 c. 43

(**10**) Part 11 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), sections 1(2)(a) and (b), 11(2) and (3), Schedule 2; the Employment Relations Act 1999 (c. 26), Schedule 4, Part 3, paragraphs 5, 25, 26, 27, 29 and 30, Schedule 9, Table 2; S.I. 2001/1090; the Education Act 2002 (c. 32), Schedule 21, paragraph 31; the Enterprise Act 2002 (c. 40), Schedule 17, paragraphs 49(1), (2)(a) and (2)(b), Schedule 26; S.I. 2006/1031; the Employment Act 2008 (c. 24), section 7(2); S.I. 2010/1158; S.I. 2011/1133; the Sovereign Grant Act 2011 (c. 15), Schedule 1, paragraph 31; S.I. 2012/3014; and the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 2, paragraphs 15 and 34.

(**11**) S.I. 1983/1160; revoked by S.I. 1999/2277

(**12**) Chapter 2 of Part 14 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a); the Teaching and Higher Education Act 1998 (c. 30), Schedule 3, paragraph 14; the Employment Relations Act 1999 (c. 26), section 36(1)(a) and (c), Schedule 4, Part 3, paragraphs 5, 39 and 40, Schedule 9, Table 2, Table 10; the Employment Act 2002 (c. 22), Schedule 7, paragraphs 24, 45, 46, 47(1), (2) and (3); the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 1, paragraphs 1, 8 and 9; S.I. 2013/1949; the Children and Families Act 2014 (c. 6), section 127(2)(c); and S.I. 2014/382.

(**13**) S.I 1997/3001; revoked by the 2010 Regulations

(b) a function provider in connection with the performance of a function in respect of which the function provider is accepted in accordance with regulation 14 of the 2010 Regulations or paragraph 3 of Schedule 1 to the 2014 Regulations,

to undertake the same, or substantially the same, functions as the person was undertaking immediately before the date of the election, under either the same contract of employment or under a contract of employment which has effect by virtue of regulation 4 of the Transfer of Undertakings (Protection of Employment) Regulations 2006(**14**).

(3) Employment falling within paragraph 6 or 7 of Schedule 2 to the 2010 Regulations or paragraph 14 or 15 of Schedule 1 to the 2014 Regulations is only relevant employment if it is at an institution which is within the further education sector as defined in section 91(3) of the Further and Higher Education Act 1992(**15**)

Normal pension age

4.—(1) Subject to paragraphs (2) and (3), a person's normal pension age is to be determined in accordance with Part 7 of the 2010 Regulations and regulation 3 of the 2014 Regulations.

(2) A person who is a member of the existing scheme with a normal pension age of 60 is, for the purposes of these Regulations, to be treated as having a normal pension age of 65.

(3) The normal pension age of a transition member is—

(i) in relation to reckonable service under the existing scheme which is taken into account in calculating mandatory compensation under Part 4, 65;

(ii) in relation to accrued pension under the 2015 scheme which is taken into account in calculating mandatory compensation under Part 4 or discretionary compensation under Part 5, the state pension age.

(4) A person who attains normal pension age in relation to the existing scheme but has not attained normal pension age in relation to the 2015 scheme is eligible to receive benefits under the existing scheme which are payable by reason of the person having attained normal pension age under that scheme and benefits under the 2015 scheme which are payable by reason of the person not having attained normal pension age under that scheme.

PART 2

Discretionary Compensation for Redundancy

Application of this Part

5. This Part applies to any person (P) who has become entitled to a redundancy payment under Part 11 of the 1996 Act in consequence of P having ceased to be employed in relevant employment.

Discretionary compensation for redundancy

6. The appropriate person may pay to a person to whom this Part applies compensation which does not exceed the difference between—

(a) the redundancy payment to which the person is entitled under Part 11 of the 1996 Act; and

(b) the redundancy payment to which the person would have been so entitled if section 227(1)(c) of the 1996 Act had been repealed.

(**14**) S.I. 2006/246; regulation 4 was amended by S.I. 2014/16.
(**15**) 1992 c. 13; section 91(3) was amended by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 8, paragraphs 1 and 13(1) and (2).

PART 3

Discretionary Compensation for Termination

Application of this Part

7. This Part applies to any person (P) who has ceased on or after 1st April 1997 to be employed in relevant employment by reason of P's redundancy or in the interests of the efficient discharge of P's employer's functions.

Discretionary compensation for termination

8. Subject to section 37(1) to (3) of the 2002 Act(**16**) the appropriate person may pay to a person to whom this Part applies compensation which does not exceed A-B where—

A is a sum equivalent to 104 weeks' pay;

B is the aggregate of—

(a) any redundancy payment to which the person is entitled under Part 11 of the 1996 Act; and

(b) any compensation which is paid to the person under Part 2.

PART 4

Mandatory Compensation for Premature Retirement

Entitlement to mandatory compensation

9.—(1) A person to whom paragraphs (3) and (5) or paragraphs (4) and (5) apply is eligible for annual compensation under these Regulations.

(2) A person to whom paragraph (3) and regulation 62(6) of the 2010 Regulations apply is eligible for lump sum compensation under these Regulations.

(3) This paragraph applies to a person (P) if—

(a) P ceases to be in pensionable or excluded employment because P's employment is terminated by reason of P's redundancy or in the interests of the efficient discharge of P's employer's functions;

(b) P has attained normal minimum pension age on or before the date that P falls within sub-paragraph (a);

(c) P's employer gives written notice to the scheme manager that—

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

(ii) P's employer agrees that a premature retirement pension should become payable;

(d) P has not received or is not to receive compensation under Part 3 as a result of the termination of the employment; and

(e) P either—

(i) makes an application under regulation 107 of the 2010 Regulations for retirement benefits on the basis that P satisfies the requirements of this paragraph and that

(**16**) Section 37(1), (2) and (3) was amended by S.I. 2010/1158.