STATUTORY RULES OF NORTHERN IRELAND

2014 No. 37

EDUCATION

The Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 2014

Made - - - - 12th February 2014

Coming into operation 10th March 2014

The Department of Education makes the following Regulations in exercise of the powers conferred by Articles 11(1)(**1**), (2), (3), (3A)(**2**), 14(1) and (2) and paragraphs 1, 3, 4, 5, 6, 8, 11 and 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(**3**).

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

In accordance with Article 11(1) of that Order these Regulations are made with the consent of the Department of Finance and Personnel(**4**).

Citation and commencement

1. These Regulations may be cited as the Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 2014 and shall come into operation on 10 March 2014.

Amendment of Superannuation Regulations

2. The Teachers' Superannuation Regulations (Northern Ireland) 1998 (**5**) are amended in accordance with regulations 3 to 18.

3.—(1) Regulation B1 is amended as provided by paragraph (2).

(2) For paragraph (5) substitute—

> "(5) A person who, before 1 February 2013, was employed as a temporary teacher or was in part-time employment while he was entitled to be paid a teachers' pension is not, for so long as he remains in the same employment, in pensionable employment unless;

(**1**) As amended by S.I. 1990/1509 (N.I. 13) Article 13(1)
(**2**) As amended by S.I 1990/1509 (N.I. 13) Article 6(1)
(**3**) S.I. 1972/1073 (N.I. 10)
(**4**) Formerly Department of Finance: see S.I. 1982/338 (N.I. 6) Article 3
(**5**) S.R. 1998 No. 333, relevant amendments are S.R. 2005 Nos. 181 and 495, S.R. 2006 Nos.163 and 366, S.R. 2007 No. 137 and S.R. 2010 No. 137

(a) he makes an election under regulation B5; or

(b) he is enrolled into the Scheme under arrangements made by the employer under section 3(2) (automatic enrolment) or section 5(2) (automatic re-enrolment) of the Pensions (No.2) Act (Northern Ireland) 2008 in respect of the employment, and no election under regulation B4 has effect.".

4.—(1) Regulation B3 is amended as provided by paragraph (2).

(2) For paragraph (1)(a) substitute—

"(a) 16 years old or older and under 75; and".

5. For regulation B4 substitute—

"**Election for employment not to be pensionable**

B4.—(1) A person may make an election under this regulation in respect of a particular pensionable employment by giving written notice to the Department.

(2) An election has effect from the first day of the month after the month in which the notice is given.

(3) But—

(a) if the notice is given within 3 months after the start of employment in a capacity mentioned in Schedule 2, the election has effect from the first day of that employment; and

(b) if the notice is given within 3 months after the date on which arrangements made by the employer under section 3(2) (automatic enrolment) or section 5(2) (automatic re-enrolment) of the Pensions (No.2) Act (Northern Ireland) 2008 have effect in respect of that employment, the election has effect from that date.

(4) An election ceases to have effect from the earlier of—

(a) the date on which an election under regulation B5 (election to rejoin pensionable service) has effect; and

(b) the date on which arrangements made by the employer under section 3(2) (automatic enrolment) or section 5(2) (automatic re-enrolment) of the Pensions (No.2) Act (Northern Ireland) 2008 have effect in respect of the employment.".

6.—(1) Regulation B5 is amended as provided in paragraphs (2) and (3).

(2) After paragraph (1A) insert–

"(1B) A person to whom regulation B1(5) applies who is in employment which would otherwise have been pensionable employment may at any time, by giving written notice to the Department, make an election under this regulation.".

(3) In paragraph (3) after "paragraph 1(a)" insert "or (1B)".

7.—(1) Regulation E3 is amended as provided in paragraph (2).

(2) After paragraph (2) insert–

"(2A) If the person was entitled to be paid a teacher's pension and has re-entered pensionable employment, any period of 1 year in such employment is an appropriate qualifying period.".

8.—(1) Regulation E4 is amended as provided in paragraphs (2) to (6).

(2) In paragraph (2) for "Case B, C, D, E or F" there shall be substituted "Case C, D, E or F".

(3) In paragraph (4) for sub-paragraph (b) substitute—

"(b) 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, parental 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.; and".

(4) In paragraph (5) for sub-paragraph (c) substitute—

"(c) has become incapacitated before attaining that age; and".

(5) In paragraph 7 for sub-paragraph (c) substitute—

"(c) is not within Case C, and".

(6) In paragraph (9) for "Cases A, B and E" there shall be substituted "Cases A and E".

9.—(1) Regulation E4A is amended as provided by paragraphs (2) to (5).

(2) In paragraph (2)(b) for "25%" there shall be substituted "20%".

(3) In paragraph (3)(d) for "25%" there shall be substituted "20%".

(4) In paragraph (6) for "75%" there shall be substituted "80%".

(5) For paragraph (12) substitute—

"(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) in relation to an election made on or before 22nd June 2010 RPI1 is the retail prices index for the second month before the month in which the change in pensionable employment occurred,

(b) in relation to an election made after 22nd June 2010 CPI1 is the consumer prices index for the second month before the month in which the change in pensionable employment occurred, and

(c) 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".".

10.—(1) Regulation E5A is amended as provided in paragraph (2).

(2) For paragraph (3) substitute—

"(3) The factor in this paragraph is—

(a) in relation to an election made on or before 22nd June 2010, RPI1/RPI2 where—

(i) RPI1 is the retail prices index for the penultimate month before the month which includes the day before the person becomes entitled to the part of his retirement pension referred to in this regulation, and

(ii) RPI2 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, and

(b) in relation to an election made after 22nd June 2010, CPI1/CPI2 where—

(i) CPI1 is the consumer prices index for the penultimate month before the month which includes the day before the person becomes entitled to the part of his retirement pension referred to in this regulation, and

(ii) CPI2 is the consumer prices index for the month which includes the start date, as defined in paragraph 1 of Schedule 2A, for the election in question.".

11.—(1) Regulation E15 is amended as provided by paragraph (2).

(2) For paragraph (1) substitute—

"(1) This regulation applies to a person who became entitled to payment of a teacher's pension by virtue of regulation E4(4) or (5) ("the first pension") and was subsequently in pensionable employment ("the further employment") and has ceased to be in the further employment.".

12. After regulation E15 there shall be inserted the following regulation–

"E15A Retirement benefits on cessation of further employment where regulation E15 does not apply"

"(1) This regulation applies to a person, other than a person to whom regulation E15 applies, who—

(a) was entitled to be paid a teacher's pension,

(b) has, after becoming entitled to a teacher's pension, re-entered pensionable employment ("the further employment"), and

(c) ceases to be in the further employment.

(2) Such a person becomes entitled to payment of retirement benefits in accordance with paragraphs (3) to (7) by reference to his reckonable service in the further employment.

(3) Where regulation E4(2) or (6) applies, subject to paragraph (7), a person's entitlement to retirement benefits takes effect–

(a) where, at the time of the application for benefits under regulation E33 the person was in pensionable 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.

(4) Where regulation E4(4) or E4(5) applies, subject to paragraph (7), a person's entitlement to retirement benefits takes effect in accordance with regulation E4(10).

(5) Where regulation E4(7) applies, subject to paragraph (7), a person's entitlement to retirement benefits takes effect in accordance with regulation E4(11).

(6) Where regulation E4(7AC) applies, subject to paragraph (7), a person's entitlement to retirement benefits takes effect in accordance with regulation E4(11A).

(7) Where a person ceases to be in further employment such as is mentioned in paragraph (1)(b) ("the earlier further employment") and he subsequently enters further employment without making an application for benefits under regulation E33 in respect of the earlier further employment, he cannot make such an application during any period of subsequent further employment.".