STATUTORY RULES OF NORTHERN IRELAND

2010 No. 136

EDUCATION

The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 2010

Made - - - -	*31st March 2010*
Coming into operation	*30th April 2010*

The Department of Education makes the following Regulations in exercise of the powers conferred by Articles 11(1)(**1**), (2), (3), (3A)(**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**).

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 2010 and shall come into operation on 30th April 2010.

Interpretation

2.—(1) In these Regulations—

(a) any reference to, or to things done or falling to be done under or for the purposes of, any provision of these Regulations is, if and so far as the nature of the reference permits, to

(**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

be construed as including, in relation to circumstances or purposes in relation to which the corresponding provision in the 1991 Regulations has or had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision; and

(b) any expression which is defined in the Superannuation Regulations has the same meaning as in those Regulations.

(2) In these Regulations –

"the 1971 Act" means the Pensions (Increase) Act (Northern Ireland) 1971(**5**);

"the 1989 Order" means the Education Reform (Northern Ireland) Order 1989(**6**);

"the 1991 Regulations" means the Teachers (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(**7**)**;**

"the 1996 Order" means the Employment Rights (Northern Ireland) Order 1996(**8**);

"annual compensation" without further qualification means annual compensation payable under regulation 7, regulation 12 or both;

"the appropriate person" in relation to a teacher means—

(a) in the case of a teacher who has ceased to be employed at a controlled school, the appropriate board;

(b) in the case of a teacher who has ceased to be employed at a Catholic maintained school, the appropriate board;

(c) in the case of a teacher who has ceased to be employed at a maintained primary school, other than a Catholic maintained primary school, the appropriate board or in the case of a voluntary primary school, which is not a maintained school, the manager; and

(d) in any other case, the person by whom he was formerly employed.

"assumed retirement lump sum" and "assumed retirement pension" are to be construed in accordance with regulation 12(5);

"board" means an education and library board;

"Catholic maintained school" has the meaning assigned to it by Article 141(3) of the 1989 Order;

"compensating authority" is to be construed in accordance with regulation 20;

"compensation" without further qualification means compensation payable under these Regulations;

"the Council" means the Council for Catholic Maintained Schools;

"credited teacher" means an eligible teacher who has been credited with a period of service under regulation 11, and "credited period" means the period with which he has been credited;

"deciding authority" is to be construed in accordance with regulation 11;

"delegated budget," in relation to a school, has the same meaning as in Part V of the 1989 Order;

"Department" means—

(a) in the case of a person who, immediately before the material date, was employed by a body which either directly or indirectly receives funds from the Department for Employment and Learning, the Department for Employment and Learning;

(**5**) 1971 c.35 (NI)
(**6**) S.I. 1989/ 2406 (N.I. 20)
(**7**) S.R. 1991 No. 132, as amended by SR 2002 No. 393
(**8**) S.I 1996/1919 (N.I. 16)

(b) in the case of a person who, immediately before the material date, was employed by the Juvenile Justice Board, the Secretary of State;

(c) in the case of a person who, immediately before the material date, was employed by a body which either directly or indirectly received funds from the Department of Culture, Arts and Leisure, the Department of Culture, Arts and Leisure;

(d) in the case of all other persons, the Department of Education;

"effective service" is to be construed in accordance with regulation 11(2);

"eligible teacher" is to be construed in accordance with regulation 4(6);

"employing authority" in relation to an eligible teacher, means a board, the Council, a Board of Governors of a voluntary grammar school or grant maintained integrated school or any other maintained school which is not a Catholic maintained school or the governing body of an institution of further education or other person or body by whom he is employed before the material date;

"former employment" in relation to an eligible teacher or a credited teacher, means relevant employment in relation to which the conditions in regulation 4(7) are satisfied, and "former employer" means the person who employed him in that employment;

"grant maintained integrated school" has the meaning assigned to it by Article 65 (3) of the Education Reform (Northern Ireland) Order 1989;

"institution of further education" has the meaning assigned to it by Article 2(2) of the Further Education (Northern Ireland) Order 1997(**9**);

"lump sum compensation" without further qualification means lump sum compensation payable under regulation 7, regulation 12 or both;

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

"new employment" has the meaning given in regulation 18(1);

"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 he became entitled under Part XII of the 1996 Order,

(b) any increase paid by the former employer before 18th August 1986 so that the payment, as increased, corresponded to that which would have been payable had the Redundancy Payments (Local Government etc) (Modification) (Northern Ireland) Order 1986(**10**) been in operation on the material date, and

(c) any compensation which was paid by the former employer under regulation 5 or was of an amount corresponding to that which would have been payable under that regulation if it had been in operation on the material date;

"relevant employment" is to be construed in accordance with regulation 3;

"the Superannuation Regulations" means the Teachers' Superannuation Regulations (Northern Ireland) 1998(**11**);"

"a week's pay" shall be calculated in accordance with Chapter IV of Part I of the 1996 Order but, for the purposes of these Regulations, the calculation date shall be the date that the person in question ceased to hold the relevant employment in question and that Chapter shall be applied as if Article 23(1) (c) of that Order had been repealed.

(**9**) S.I. 1997/1772 (N.I. 15)
(**10**) S.R. 1986 No. 206
(**11**) 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, S.R. 2006 No. 366, S.R. 2007 No. 137 and S.R. 2008 No. 50

(3) Where 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) In these Regulations

— controlled school;

— grammar school;

— maintained school;

— nursery school;

— primary school;

— secondary school;

— special school; and

— voluntary school,

have the meanings respectively assigned to them by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(**12**).

Relevant employment

3.—(1) Relevant employment is employment falling within Schedule 2 to the Superannuation Regulations.

(2) For the purposes of these Regulations—

(a) Employment category A comprises relevant employment—

(i) at a controlled or maintained secondary school (other than a voluntary grammar school), or a controlled grammar school, which for the time being had a delegated budget,

(ii) at a maintained primary school (other than a Catholic maintained or grant-maintained integrated school), or

(iii) at any school formerly within category B or category D which has for the time being been given a delegated budget;

(b) employment category B comprises relevant employment at a controlled or Catholic maintained primary or nursery school which for the time being did not have a delegated budget;

(c) employment category C comprises relevant employment—

(i) at a voluntary primary school which is not a maintained school and which for the time being did not have a delegated budget,

(ii) at a voluntary grammar school,

(iii) at an institution of further education, or

(iv) at a grant maintained integrated school;

(d) employment category D comprises relevant employment—

(i) at a controlled or Catholic maintained special school,

(ii) at a voluntary maintained special school,

which did not have a delegated budget;

(**12**) S.I 1986/594 (N.I. 3)

(e) employment category E comprises relevant employment at any school for which a delegated budget had been suspended under Article 53 (1) of the 1989 Order; and

(f) employment category F comprises relevant employment not falling within categories A to E.

Persons to whom the Regulations apply

4.—(1) Part 2 applies to any person who has become entitled to a redundancy payment under Part XII of the 1996 Order in consequence of his having ceased to be employed in relevant employment.

(2) Part 3 applies to any person who has ceased on or after 30th April 2010 to be employed in relevant employment by reason of his redundancy or in the interests of the efficient discharge of his employer's functions.

(3) Part 4 applies as stated in the regulations in that Part.

(4) Parts 5 and 6 apply to eligible teachers.

(5) Part 7 applies to eligible teachers and persons to whom Part 4 applies.

(6) An eligible teacher is a person

(a) who immediately before the material date was employed in relevant employment;

(b) who has not received or is not to receive compensation under Part 3 (discretionary compensation for termination); and

(c) in relation to whom the conditions in paragraph (7) are satisfied.

(7) The conditions are that—

(a) when his employment was terminated he had attained the age of 55 but had not attained the age of 65;

(b) (i) he then had completed a qualifying period, within the meaning of regulation E3 of the Superannuation Regulations, of at least 2 years, or

(ii) in the case of a person who was in full-time employment, he would have completed such a qualifying period if he had not made an election under regulation B1(4) or B4 of the Superannuation Regulations;

(c) he did not become entitled to payment of retirement benefits under Case C in regulation E4(4) of those Regulations (incapacity);

(d) the former employer has notified the Department in writing that—

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

(ii) in the case of a person who has not attained the normal pension age the employer, with the approval of the compensating authority, has agreed that he should be entitled to retirement benefits under Case F in regulation E4(5) of the Superannuation Regulations (premature retirement); and

(e) in respect of a person whose employment was terminated in the interests of the efficient discharge of the employer's functions, the Department approves the reason for that termination.