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)(**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 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(**4**).

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(**5**) are amended in accordance with Schedule 1.

(2) The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(**6**) are amended in accordance with Schedule 2.

(3) The Teachers' Superannuation Regulations (Northern Ireland) 1998(**7**) are amended in accordance with Schedule 3, together with Schedule 4.

(**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. 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
(**6**) S.R. 1991 No. 132, as amended by S.R. 2002 No. 393
(**7**) 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

Transitional provisions and savings

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

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.

L.S.

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.

L.S.

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—

4.—"(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(**8**).".

(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 time,

(**8**) 2004 c.12

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(**9**)—

(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(**10**)—

(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(**11**) 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(**12**) paragraph (2) omit the definitions of "civil partner" and "civil partnership".

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