STATUTORY RULES OF NORTHERN IRELAND

2005 No. 495

EDUCATION

The Teachers' Superannuation (Amendment) (No. 2) Regulations (Northern Ireland) 2005

Made - - - -	*10th November 2005*
Coming into operation	*5th December 2005*

The Department of Education, in exercise of the powers conferred on it by Article 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**) and of every other power enabling it in that behalf, and after consultation with representatives of local education authorities, and of teachers and with such representatives of other persons likely to be affected as required by Article 11(5) of that Order, and with the consent of the Department of Finance and Personnel(**4**), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Teachers' Superannuation (Amendment) (No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on 5th December 2005.

Amendment of the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996

2. The Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996(**5**) shall be amended as provided by regulations 3 and 4.

3.—(1) Regulation 2 shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (1), after the definition of "child", there shall be inserted—

""civil partner" is to be construed in accordance with the Principal Regulations;".

(3) In paragraph (3), in the definition of "dependent" after "any surviving spouse", there shall be inserted "or surviving civil partner".

(**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, amended by S.R. 2001 No. 149 and S.R. 2003 No. 86

4. In regulation 11(2) for "regulation 75 of the Principal Regulations." there shall be substituted "regulation F1 or F1A of the Principal Regulations."

Amendment of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991

5. The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(**6**) shall be amended as provided by regulations 6 and 7.

6. In regulation 2(2) after the definition of "child" there shall be inserted—

""civil partner" and "civil partnership" are to be construed in accordance with the Teachers' Superannuation Regulations (Northern Ireland) 1998(**7**);".

7.—(1) Regulation 11 shall be amended as provided by paragraphs (2) and (3).

(2) For paragraph (3), there shall be substituted—

"(3) Unless the compensating authority determines otherwise in the particular case, long-term adult compensation—

(a) is not payable if, at the date of the deceased's death, the person to whom it would (apart from this sub-paragraph) have been payable is living with someone as if they were husband and wife or as if they were civil partners, and

(b) ceases to be payable when the person to whom it was payable marries, forms a civil partnership or begins to live with someone as if they were husband and wife or as if they were civil partners.".

(3) After paragraph (4) there shall be added—

"(5) For the purposes of this regulation, two people of the same sex are to be regarded as living together as if they were civil partners if they would be regarded as living together as husband and wife if they were not of the same sex.".

Amendment of the Teachers' Superannuation Regulations (Northern Ireland) 1998

8. The Teachers' Superannuation Regulations (Northern Ireland) 1998 shall be amended in accordance with regulations 9 to 47.

9. In regulation B3 in paragraph (1)(b), after "maternity" in each case there shall be inserted ", paternity or adoption".

10.—(1) Regulation C1 shall be amended as provided by paragraphs (2) to (5).

(2) In paragraph (1)(a)(ii) after "maternity;" there shall be inserted ", paternity or adoption,".

(3) In paragraph (2) after "maternity leave" there shall be inserted ", paternity leave".

(4) In paragraph (6) after "adoption leave" there shall be inserted ", paternity leave".

(5) In paragraph (11) after "adoption leave" there shall be inserted ", paternity leave".

11. In regulation C5, in paragraph (1), for "[date of commencement]" there shall be substituted "2nd November 1998".

12. In regulation C8, after paragraph (2), there shall be added—

"(3) Parts IIA and III of Schedule 6 have effect for enabling family benefit contributions in respect of a civil partner's reckonable service before 6th April 1988 to be paid.".

(**6**) S.R. 1991 No.132, amended by S.R. 2002 No. 393
(**7**) S.R. 1998 No. 333, amended by S.R. 2001 No. 149 and S.R. 2005 No. 181

13.—(1) Regulation D1 shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (1)(b) for "or F4(8) (receipt of transfer value)," there shall be substituted ", F4(8) (acceptance of transfer value) or F4A(3) (acceptance of transfer values as part of a bulk transfer),".

(3) In paragraph (3)(b) after "maternity" there shall be inserted ", paternity or adoption".

14. In regulation D2, in paragraph (b), after "regulation F1 or" there shall be inserted "F1A or in respect of which".

15.—(1) Regulation E1 shall be amended as provided by paragraphs (2) to (5).

(2) In paragraph (3)(c) after "his guaranteed minimum," the word "and" shall be omitted.

(3) In paragraph (3)(d) for "the period so prescribed." there shall be substituted "the period so prescribed, and".

(4) After paragraph (3)(d) there shall be inserted—

"(e) in the case of a person who dies at any time leaving a surviving civil partner who is not entitled to a pension as a surviving civil partner at a higher rate under these Regulations, the surviving civil partner is entitled to a pension in the circumstances and for the period set out in or prescribed under section 13 of the Pensions Act.".

(5) In paragraph (4) for "a widower's pension payable under paragraph (3)(d)" substitute "a widower's or surviving civil partner's pension payable under paragraph (3)(d or (e)".

16. After regulation E1 there shall be inserted the following regulation—

"**Residual liability for guaranteed minimum pensions and for section 5(2B) rights**

E1A.—(1) This regulation applies where—

(a) a person has exercised his right to a cash equivalent,

(b) the other occupational pension scheme or personal pension scheme into which he has transferred or is in the course of transferring his cash equivalent is not willing or able to accept the cash equivalent of his guaranteed minimum pension or section 5(2B) rights, and

(c) he has not transferred the cash equivalent of his guaranteed minimum pension or section 5(2B) rights into a policy described in section 15(4)(**8**) of the Pensions Schemes (Northern Ireland) Act(a) or a separate personal pension scheme.

(2) Where this regulation applies the person is entitled—

(a) to a pension at a weekly rate equal to his guaranteed minimum from the date on which he attains state pensionable age;

(b) to a lump sum and a pension in respect of his section 5(2B) rights from the date on which he attains the age of 60,

or to both.".

17.—(1) Regulation E4 shall be amended as provided by paragraphs (2) to (5).

(2) In paragraph (3) in the first line, after "Case B", the word "female" shall be omitted.

(3) Paragraph (3)(c) shall be omitted.

(4) Sub-paragraphs (d), (e), (f) and (g) of paragraph (3) shall be re-numbered (c), (d), (e) and (f) respectively.

(**8**) Pension Schemes (Northern Ireland) Act 1993 (c. 49); section 5(2B) was inserted by Article 133(3) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(5) Regulation E4(3) shall cease to have effect as from 31st August 2006.

18. In regulation E8(1), for sub-paragraph (a), there shall be substituted

"(a) (i) where his pensionable employment terminates before 5th December 2005, he had completed periods of the kinds described in Schedule 8 totalling at least 5 years, excluding any contributions refund period, or

(ii) where his pensionable employment terminates on or after 5th December 2005, he had completed periods of the kinds described in Schedule 8 totalling at least 2 years, excluding any contributions refund period, and".

19.—(1) Regulation E11 shall be amended as provided by paragraphs (2) to (4).

(2) In paragraph (2)(a) after "a surviving spouse" there shall be inserted ", surviving civil partner".

(3) In paragraph (2)(b) after "spouse", in each place where that word occurs, there shall be inserted "or civil partner".

(4) In paragraph (4) after "spouse" there shall be inserted "civil partner".

20. In regulation E19(1) for "E4(4)" there shall be substituted "E4(2), (4)".

21. After regulation E19 there shall be inserted the following regulation—

"**Commutation: trivial pensions**

E19A.—(1) Where a person has become entitled to a retirement pension of a trivial amount, the Department may pay to that person a lump sum representing the capital value of that pension and of any benefits that might otherwise have become payable on that person's death.

(2) A pension may not be treated as trivial if it includes a guaranteed minimum unless the person has reached state pensionable age or any pension in respect of the guaranteed minimum is otherwise payable.

(3) A pension may be treated as trivial only if the aggregate of all benefits does not exceed £260 per annum.

(4) Any lump sum payable under this regulation will be calculated by the Department, after taking advice from the Government Actuary.

(5) A deduction is to be made from any payment under this regulation for the amount of tax chargeable in respect of it under section 599 of the Taxes Act.

(6) A payment under this regulation shall discharge the Department's liability in respect of that pension and of any benefits that might otherwise have become payable on that person's death.".

22.—(1) Regulation E20 shall be amended as provided by paragraphs (2) to (8).

(2) In paragraph (1) for "paragraph (6)" there shall be substituted "paragraphs (1A) and (6)".

(3) At the end of paragraph (1)(c) the word "or" shall be inserted.

(4) After paragraph (1)(c) there shall be inserted—

"(d) was on unpaid maternity, paternity or adoption leave or parental leave,".

(5) After paragraph (1) there shall be inserted—

"(1A) No death grant may be paid under paragraph (1)(c) in respect of a person to whom retirement benefits or a short-service incapacity grant calculated (in either case) by reference to the total of his reckonable service have been paid.".

(6) In paragraph (6)(b) after "surviving spouse" there shall be inserted ", surviving civil partner".

(7) In paragraph (7) for sub-paragraph (a) there shall be substituted—

"(a) if the deceased is survived by one widow, a widower or a surviving civil partner, to the widow, widower or surviving civil partner,".

(8) In paragraph (7)(c) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner,".

23.—(1) Regulation E21 shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (6) for sub-paragraph (a) there shall be substituted—

"(a) if the deceased is survived by one widow, a widower or a surviving civil partner, to the widow, widower or surviving civil partner.".

(3) In paragraph (6)(c) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner".

24.—(1) Regulation E22 shall be amended as provided by paragraphs (2) to (4).

(2) In paragraph (1) after "widowers," there shall be inserted "surviving civil partners,".

(3) In paragraph (5) for sub-paragraph (a) there shall be substituted —

"(a) his legitimate or illegitimate child born during his lifetime or within 12 months of the date of his death or his adopted child, or".

(4) In paragraph (6) after "while he is unmarried" there shall be inserted "or not a civil partner".

25.—(1) Regulation E23 shall be amended as provided by paragraphs (2) to (4).

(2) In paragraph (1) for "an unmarried person" there shall be substituted "a person who is not married or is not a civil partner".

(3) For paragraph (3) there shall be substituted—

"(3) The eligible persons are—

(a) a parent, brother or sister of the appointor who is not married or is not a civil partner and has never been married or a civil partner, and

(b) a parent, step-parent, brother or sister of the appointor who is widowed or is a surviving civil partner.".

(4) In paragraph (4) for sub-paragraphs (a) and (b) there shall be substituted —

"(a) if the person nominated dies, marries or forms a civil partnership; or

(b) if the appointor marries or forms a civil partnership.".

26.—(1) Regulation E24 shall be amended as provided by paragraphs (2) to (4).

(2) In paragraph (2)(a) after "surviving spouse" there shall be inserted "or surviving civil partner".

(3) For paragraph (3) there shall be substituted —

"(3) But where, following the death of more than one person, more than two short-term pensions would (apart from this paragraph) be payable to, or for the benefit of, the same child, only the two short-term pensions which are greatest in value are payable to, or for the benefit of, that child.".

(4) In paragraph (4)(c) after "surviving spouse" there shall be inserted ", surviving civil partner".

27.—(1) Regulation E25 shall be amended as provided by paragraphs (2) to (4).

(2) In paragraph (1)(a) after "maternity" there shall be inserted ", paternity or adoption".