STATUTORY RULES OF NORTHERN IRELAND

2001 No. 149

EDUCATION

The Teachers' Superannuation (Sharing of Pensions on Divorce or Annulment) Regulations (Northern Ireland) 2001

Made - - - -	*3rd April 2001*
Coming into operation	*1st May 2001*

The Department of Education(**1**), in exercise of the powers conferred upon it by Articles 11(1)(**2**), (2), (2A)(**3**), (3), (3A)(**4**), (4) and (6)(**5**), 14(2)(**6**) and (3) and (3A) of and paragraphs 1, 3, 4, 6, 8, 9 and 11 to 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(**7**) and of all other powers enabling it in that behalf, and after consultation with representatives of education and library boards, 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(**8**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Sharing of Pension on Divorce or Annulment) Regulations (Northern Ireland) 2001 and shall come into operation on 1st May 2001.

(2) In these Regulations—

"the 1998 Regulations" means the Teachers' Superannuation Regulations (Northern Ireland) 1998(**9**); and

"the 1996 Regulations" means the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996(**10**).

(**1**) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)
(**2**) As amended by S.I. 1990/1509 (N.I. 13) Article 13(1)
(**3**) As inserted by S.I. 1990/1509 (N.I. 13) Article 10(3)
(**4**) As inserted by S.I. 1990/1509 (N.I. 13) Article 6(1)
(**5**) As amended by S.I. 1990/1509 (N.I. 13) Articles 10(4) and 13(2)
(**6**) Article 14 was amended by S.I. 1990/1509 (N.I. 13); Article 12(1) and (2) and Article 14(3A) was inserted by S.I. 1972/1073 (N.I. 13) Article 12(3)
(**7**) S.I. 1972/1073 (N.I. 10)
(**8**) Formerly a function of the Department of Finance: *see* S.I. 1982/378 (N.I. 6) Article 3
(**9**) S.R. 1998 No. 333
(**10**) S.R. 1996 No. 260

Amendment to the 1998 Regulations

2.—(1) There shall be inserted after Part H of the 1998 Regulations the Part contained in Schedule 1.

(2) The definitions in Schedule 2 shall be inserted in the appropriate place in alphabetical order in Schedule 1 to the 1998 Regulations.

(3) Further amendments to the 1998 Regulations are contained in Schedule 3.

Amendments to the 1996 Regulations

3.—(1) After regulation 13 of the 1996 Regulations there shall be inserted the regulation contained in Schedule 4.

(2) Further amendments to the 1996 Regulations are contained in Schedule 5.

Sealed with the Official Seal of the Department of Education on 3rd April 2001.

N. Jackson
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 3rd April 2001.

D. S. Trelford
A Senior Officer of the
Department of Finance and Personnel

SCHEDULE 1 Regulation 2(1)

Part I of the 1998 Regulations

"Part I

Pension Sharing

Pension sharing

I1. Pension sharing within the meaning of Part V of the 1999 Order(**11**) is available under the Teachers' Superannuation Scheme in respect of all or part of a person's shareable rights as set out in this Part and the Department shall discharge its liability in respect of a pension credit which derives from the Teachers' Superannuation Scheme by conferring appropriate rights under the Teachers' Superannuation Scheme on the person entitled to the credit.

Safeguarded rights

I2.—(1) A pension credit member's safeguarded rights for the purposes of the Teachers' Superannuation Scheme are such of his rights falling within section 64A(1) of the Pensions Act(**12**) as representing the safeguarded percentage of the rights acquired by him in the Teachers' Superannuation Scheme by virtue of the pension credit.

(2) For the purpose of these Regulations—

(a) the "safeguarded percentage" is the percentage of the rights, by reference to which the amount of the pension credit is determined, which are contracted-out rights or safeguarded rights, and

(b) "contracted-out rights" has the meaning in section 64A(5) of the Pensions Act.

Pension credit benefits

I3.—(1) Subject to paragraph (3), the pension credit benefits to which a pension credit member is entitled shall consist of a pension and a lump sum which are not retirement benefits within the meaning of Part E and that Part shall not apply to pension credit benefits except as provided in this Part.

(2) The pension shall be of an amount calculated by reference to the value of the rights conferred on a pension credit member calculated in accordance with regulation 10 of the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000(**13**).

(3) The lump sum shall be three times the initial annual rate of pension paid under paragraph (2), save that no lump sum shall be paid to the pension credit member if the corresponding pension debit member has already received a lump sum before the pension sharing order takes effect.

(4) Regulation E33 (payment of benefits) shall apply to a pension credit member and for those purposes only any reference to benefits payable under Part E shall be a reference to the benefits payable under this Part.

(**11**) The Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
(**12**) Section 64A was inserted by Article 33 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**13**) S.R. 2000 No. 145

(5) Subject to making an application for payment under regulation E33(2), a pension credit member shall receive payment in accordance with this regulation upon attaining the age of 60.

(6) A pension credit member's pension under this Part continues to be payable until the death of the person entitled to it.

Commutation

I4.—(1) Where a pension credit member is suffering from serious ill health prior to attaining the age of 60 such as to give rise to a life expectancy of less than one year from the date on which commutation of the pension credit benefit is applied for, the Department may discharge the liability to pay a pension by payment of a lump sum save in relation to the pension credit member's safeguarded rights.

(2) The amount of the lump sum payable by virtue of paragraph (1) shall be the total of the lump sum that would have been payable under regulation I3(3) and five times the value of the initial annual pension that would have been payable under regulation I3(2) if the pension credit member had attained the age of 60 on the date he applied for commutation under this regulation.

(3) Where the aggregate of total benefits payable to a pension credit member (including, where applicable, any amounts payable under Part E and the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996 does not exceed the sum referred to in regulation 3(2)(*b*) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(**14**) the Department may discharge its liability to pay those benefits, save in relation to the pension credit member's safeguarded rights, by payment of a lump sum equal to the aggregated value.

Deferment

I5.—(1) This regulation applies where a pension credit member is convicted—

(a) of an offence of treason, or

(b) of one offence or more under the Official Secrets Act 1911 to 1989 for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years,

and any pension credit benefit becomes payable to him after the offence was committed.

(2) Subject to paragraph (3), where this regulation applies the Department may—

(a) defer or, as the case may be, suspend payment of the pension credit benefit for so long, or

(b) reduce its amount or rate by so much,

as it may determine.

(3) A determination under paragraph (2) shall not deprive a pension credit member of a pension payable to him by reference to his safeguarded rights.

Death grant

I6.—(1) Upon the death of a person after a pension sharing order has been made but before the Department has discharged its liability in respect of the pension credit to which that person would otherwise be entitled, a death grant shall be paid in accordance with paragraph (3).

(**14**) S.R. 2000 No. 146. The sum currently referred to is £260

(2) Upon the death of a pension credit member, a death grant shall be paid in accordance with paragraph (4) if, at the time of his death, he has not received any pension credit benefits or if he has received a pension for less than five years.

(3) The amount of the death grant to be paid in the circumstances set out in paragraph (1) is—

(a) if the deceased had attained the age of 60 on or before the date of his death, the total of a lump sum calculated in accordance with regulation I3(3) and a lump sum equal to five times the amount of the pension which would otherwise have been payable, or

(b) in all other circumstances, a lump sum equal to that to which the deceased would have been entitled if, on the date of his death, he had attained the age of 60.

(4) The amount of the death grant to be paid in the circumstances set out in paragraph (2) is—

(a) if the pension credit member was already entitled to payment of pension credit benefits, a lump sum equal to five times the amount of the pension which would otherwise have been payable less any amount which has already been paid, or

(b) if the pension credit member was not entitled to pension credit benefits, a lump sum equal to that to which he would have been entitled if, on the date of his death, he had attained the age of 60.

(5) The death grant is to be paid to the individual nominated by the deceased to receive the grant or, in the absence of such a nomination—

(a) if the deceased is survived by one widow or by a widower, to the widow or widower,

(b) if there are two or more widows, to the widows in equal shares, or

(c) if there is no widow or widower, to the personal representatives.

(6) Any nomination for the purposes of paragraph (5) shall be made by giving written notice to the Department.

Transfer Values

I7. The Department shall not pay or accept a transfer value within the meaning of Part F in respect of any pension credit rights or pension credit benefits.

Additional contributions and additional periods

I8.—(1) Subject to paragraph (2), a pension debit member may not replace any rights debited as a consequence of a pension sharing order with any rights which he would not have been able to acquire (in addition to the debited rights) had the pension sharing order not been made.

(2) Paragraph (1) shall not apply to pension debit members who are moderate earners within the meaning of regulations 5(4) to (6) of the Retirement Benefits Schemes (Sharing of Pensions on Divorce or Annulment) Regulations 2000(**15**).

Excluded membership

I9. Where a pension credit member is in pensionable employment or is not in pensionable employment but is qualified for retirement benefits, he may not count any period which could otherwise count for a purpose in connection with his pension credit benefit towards any

(**15**) S.I. 2000/1085