STATUTORY RULES OF NORTHERN IRELAND

1996 No. 260

EDUCATION

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

Made - - - -	*27th June 1996*
Coming into operation	*31st July 1996*

The Department of Education, in exercise of the powers conferred on it by Articles 11(1), (2), 2A(**1**) and (3) and 14(1), (2) and (3)(**2**) of, and paragraphs 1, 3, 5, 6, 8, 10, 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 the education and library boards, and of teachers and with such representatives of other persons likely to be affected as appeared to it to be appropriate 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.—(1) These Regulations may be cited as the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996, and shall come into operation in accordance with paragraph (2).

(2) These Regulations shall come into operation on 31st July 1996 and shall have effect from 1st April 1989.

Interpretation

2.—(1) In these Regulations—

"approved scheme" means a retirement benefits scheme approved under Chapter 1 of Part XIV of the Taxes Act;

"authorised insurance company" means either—

(**1**) Article 2A was inserted by S.I.1990/1509 (N.I. 13) Article 10(3)
(**2**) Article 14 was amended by S.I. 1990/1509 (N.I. 13) Article 12
(**3**) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1992/3218 regulation 82(1) and Schedule 10 paragraph 6
(**4**) Formerly Department of Finance: *see* S.I. 1982/378 (N.I. 6) Article 3; consent function was transferred from the Department of the Civil Service by S.I. 1982/338 (N.I. 6) Article 4

(a) a company which is a United Kingdom branch or office of an insurance company to which Part II of the Insurance Companies Act 1982(**5**) applies and which is authorised under section 3 or 4 of that Act to carry on long-term insurance business; or

(b) an EC company as defined by section 2(6) of that Act(**6**) which is lawfully carrying on long-term insurance business in the United Kingdom;

"child" has the same meaning as in regulation 2(2) of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(**7**);

"comparable Northern Ireland Service" has the same meaning as in regulation 2(1) of the Principal Regulations;

"contributor" is to be construed in accordance with regulation 7;

"the Department" means the Department of Education;

"dependant" in relation to a participator or a contributor means—

(a) any surviving spouse;

(b) any person who is a child of a participator or contributor; and

(c) any person in respect of whom at the time of death of a participator or contributor a nomination under regulation 58 of the Principal Regulations(**8**) has effect;

"free-standing additional voluntary contributions scheme" means an approved scheme which falls within section 591(2)(*h*) of the Taxes Act;

"the Index" at any time means the index of retail prices published by the Central Statistical Office of the Chancellor of the Exchequer or any successor agreed as appropriate by the Board of Inland Revenue, for the calendar month three months prior to that time;

"lump sum death benefit" means a lump sum which will become payable in the event of a person dying while paying regular contributions to provide for it;

"participator" means—

(a) a contributor who has made a benefits election under regulation 12(5);

(b) a person who ceased to be a contributor not being a person in respect of whom the Department has paid a transfer value under regulation 11; or

(c) a person in respect of whom a transfer value has been accepted under regulation 10;

"pension element" shall be construed in accordance with regulation 5(2);

"personal pension scheme" means a scheme approved under Chapter IV of Part XIV of the Taxes Act;

"Principal Regulations" means the Teachers' Superannuation Regulations (Northern Ireland) 1977(**9**);

"reckonable service" shall be construed in accordance with Regulation 3 of the Principal Regulations(**10**);

"regular contributions" means contributions, paid pursuant to an election under regulation 4(1)(*a*) or (*c*);

(**5**) 1982 c. 50
(**6**) As inserted by S.I. 1994/1696 regulation 4(2)
(**7**) S.R. 1991 No. 132
(**8**) Regulations 57 to 62 were substituted by S.R. 1988 No. 363 regulation 9
(**9**) S.R. 1977 No. 260 as amended by S.R. 1978 No. 147, S.R. 1978 No. 351, S.R. 1979 No. 380, S.R. 1980 No. 305, S.R. 1980 No. 435, S.R. 1981 No. 151, S.R. 1982 No. 12, S.R. 1982 No. 162, S.R. 1982 No. 346, S.R. 1987 No. 76, S.R. 1987 No. 86, S.R. 1987 No. 315, S.R. 1988 No. 64, S.R. 1988 No. 72, S.R. 1988 No. 167, S.R. 1988 No. 363, S.R. 1989 No. 25, S.R. 1989 No. 181 and S.R. 1991 No. 132
(**10**) Regulation 3 was amended by S.R. 1980 No. 305 regulation 5 and S.R. 1987 No. 315 regulation 4

"retire" means become entitled under regulation 48 of the Principal Regulations(**11**) to payment of retirement benefits;

"retirement pension" has the meaning given by regulation 12(2);

"retirement benefits scheme" has the meaning given in section 611 of the Taxes Act;

"salary" means—

(a) in relation to reckonable service the salary calculated in accordance with regulations 9 and 10 of the Principal Regulations; and

(b) in relation to contributions payable under regulations 27 and 28 of the Principal Regulations(**12**), the salary determined in accordance with the provisions of those Regulations for the purposes of calculating the said contributions;

"Taxes Act" means the Income and Corporation Taxes Act 1988(**13**);

"tax year" means the 12 months beginning with 6th April in any year.

(2) For the purposes of these Regulations the pension equivalent of a lump sum shall be calculated by dividing the cash value of the lump sum by 12.

Making and acceptance of elections

3.—(1) Any election under these Regulations shall—

(a) be made by giving written notice to the Department; and

(b) subject to paragraphs (2) and (3), be accepted by it.

(2) An election under these Regulations shall not be accepted by the Department if—

(a) the amount paid in contributions in any tax year pursuant to that election would be such as to cause the total of contributions paid in that tax year pursuant to these Regulations to exceed the limit imposed by regulation 8(3); or

(b) the benefits to be paid as a result of the contributions paid pursuant to that election would be likely to exceed the amount permitted by regulation 14 and the Schedule; or

(c) in the case of an election under regulation 4(1)(*c*), the amount specified in the election as the amount to be secured is less than the amount specified in regulation 4(2)(*d*).

(3) An election falling within regulation 17(2) shall not be accepted by the Department if any information required by that regulation is not given.

Election to pay regular and lump sum contributions

4.—(1) A person employed in reckonable service may at any time elect to pay—

(a) regular contributions for investment under regulation 9(1);

(b) a lump sum contribution for investment under regulation 9(1); or

(c) regular contributions to secure the payment of a lump sum death benefit under these Regulations.

(2) An election under paragraph (1) shall specify—

(a) in the case of an election under sub-paragraph (*a*) or (*c*), the amount of each regular contribution or, if expressed as a percentage of salary, that percentage.

(b) in the case of an election under sub-paragraph (*b*) the amount of the contribution;

(**11**) Regulation 48 was amended by S.R. 1978 No. 351 regulation 7, S.R. 1980 No. 305 regulation 19 and S.R. 1988 No. 363 regulation 6
(**12**) Regulation 27 was amended by S.R. 1978 No. 147 regulation 3(*f*) and S.R. 1988 No. 167 regulation 5
(**13**) 1988 c. 1

(c) in the case of an election under sub-paragraph (*a*) or (*b*) the fund or funds in which contributions are to be invested; and

(d) in the case of an election under paragraph (1)(*c*) the amount to be secured which must not be less than £5,000.

Provision for lump sum death benefit

5.—(1) This regulation shall apply where a person elects under regulation 4(1)(*c*) to pay regular contributions to secure the payment of a lump sum death benefit.

(2) A person who elects to pay regular contributions to secure the payment of a lump sum death benefit may at the same time, or at any time while paying those contributions, elect that if the lump sum becomes payable, the whole or part of it "the pension element" shall be applied by the Department for the purchase of a pension policy from an authorised provider to provide a pension or pensions for one or more dependants.

(3) An election under paragraph (2) shall specify—

(a) for whom a pension is, or pensions are, to be provided;

(b) if more than one pension is to be provided, the proportion of the pension element that is to be applied to the purchase of each of them; and

(c) in respect of every pension to be provided, whether the annual rate of the pension—

(i) is to be fixed; or

(ii) is to vary in accordance with the Index; or

(iii) is to increase yearly by a specified percentage or, if lower than that percentage, by any increase in the Index for the year in question.

(4) Subject to regulation 8(3), a person who has continued to pay regular contributions until he attains his 60th birthday but does not then retire may elect to pay further regular contributions until he attains his 61st birthday to secure the payment of a lump sum death benefit; and so long as he has not retired further elections may be made annually in respect of years commencing on his 61st and subsequent birthdays.

(5) An election made by a person under paragraph (4) shall lapse if the person retires or ceases to be employed in reckonable service during the year in question.

(6) An election under regulation 4(1)(*c*) or an election under paragraph (4) shall have effect for the purpose of the entitlement to benefit from the date when that election is accepted by the Department.

Variation and cancellation of elections

6.—(1) A contributor who has elected under regulation 4(1)(*a*) to pay regular contributions may at any time by giving written notice to the Department—

(a) subject to regulation 8(3), alter the amount of the regular contributions;

(b) require any contributions payable pursuant to the election to be invested in future under regulation 9 in a different way;

(c) require the Department to realise any investment and to reinvest the proceeds under regulation 9 in a different way; or

(d) cancel his election under regulation 4(1)((*a*).

(2) A contributor who has elected under regulation 4(1)(*b*) to pay a lump sum contribution may at any time by giving written notice to the Department require the Department to realise any investment and to reinvest the proceeds under regulation 9 in a different way.

(3) A contributor who has elected to pay regular contributions under regulation 4(1)(*c*) may at any time by giving written notice to the Department—

(a) subject to regulation 8(3), elect that a specified larger lump sum is to be secured and the regular contributions increased accordingly; or

(b) if the contributor has made an election under regulation 5(2), cancel it or alter in any specified way the manner in which the pension element is to be applied; or

(c) cancel his election under regulation 4(1)(*c*).

(4) A person paying further regular contributions pursuant to an election under regulation 5(4) may at any time make an election under regulation 5(2) or do anything authorised by paragraph (3).

(5) The Department shall give effect as soon as is reasonably practicable to the terms of any notice given under this regulation.

Contributor

7.—(1) Subject to paragraph (2), a person is a contributor while an election under regulation 4(1)(*a*) or (*c*) has effect or if he has paid a lump sum pursuant to an election under regulation 4(1)(*b*).

(2) A person who—

(a) has become entitled to retirement benefits under regulation 48 of the Principal Regulations;

(b) has, under regulation 6(1)(*d*) or (3)(*c*), cancelled the election to pay regular contributions; or

(c) subject to paragraph (3), has ceased to be employed in reckonable service and is not paying contributions under regulations 27 and 28 of the Principal Regulations (additional contributions for current period),

ceases to be a contributor.

(3) For the purposes of this regulation a person who—

(a) has ceased to be employed in reckonable service; and

(b) has re-entered reckonable service within 3 months,

shall be treated as having continued to be employed in reckonable service.

Payment of contributions and amount of regular contributions

8.—(1) Regular contributions shall be paid to the Department at intervals of one month.

(2) Payment of regular contributions under paragraph (1) shall be effected by deduction by the contributor's employer of the appropriate amounts from the contributor's salary and such deductions shall—

(a) commence to be made from the salary in respect of the first whole pay period falling after the date on which the employer receives authorisation to make them; and

(b) be remitted by that employer to the Department within 14 days after their deduction.

(3) The total of contributions paid in any tax year shall not exceed the lesser of

(A − B − C) and D,

where—

A is 15 per cent of the person's salary for that year;

B is the total of any contributions paid by him in the year to another approved scheme;

C is the total of the contributions paid by him in the year under the Principal Regulations; and