1989 No. 25

EDUCATION

Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1989

Made . . . . . *26th January 1989*

Coming into operation . . *1st March 1989*

The Department of Education, in exercise of the powers conferred on it by Article 11(1) and (2) of, and paragraphs 3, 11 and 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(**a**) and of every other power 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 by the regulations as appear to it to be appropriate as required by Article 11(5) of the said Order, with the consent of the Department of Finance and Personnel(**b**) hereby makes the following regulations:—

Citation and commencement

1. These Regulations may be cited as the Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1989, and shall come into operation on 1st March 1989.

Interpretation

2.—(1) In these Regulations "the principal regulations" means the Teachers' Superannuation Regulations (Northern Ireland) 1977(**c**).

(2) Other expressions in these Regulations have the same meaning as in the principal regulations.

Amendment of principal regulations

3. The principal regulations shall be amended as provided in regulations 4 to 15.

4. In regulation 2 (Interpretation) —

(*a*) in paragraph (1) there shall be inserted in the appropriate places in the alphabetical order the following definitions:

(a) S.I. 1972/1073 (N.I.10)

(b) Formerly Department of Finance: *see* S.I. 1982/338 (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.

(c) S.R. 1977 No. 260. Relevant amending regulations are S.R. 1978 No. 147, S.R. 1978 No. 351, S.R. 1980 No. 305, S.R. 1980 No. 435, S.R. 1982 No. 12, S.R. 1982 No. 346, S.R. 1987 No. 76, S.R. 1987 No. 315 and S.R. 1988 No. 363

" "cash equivalent" means a cash equivalent mentioned in sub-paragraph (1) of paragraph 12 of Schedule 1A(**a**) to the Pensions Order, and "part cash equivalent" means the cash equivalent of any part of the benefits mentioned in that sub-paragraph which is prescribed under sub-paragraph (2A) of that paragraph;";

" "club scheme" means a statutory scheme as defined in regulation 74(1)(*a*) or a scheme for the time being treated by the Department, with the agreement of the Department of Finance and Personnel, as such a statutory scheme;";

" "contracted-out scheme" means a contracted-out scheme within the meaning of Part IV of the Pensions Order;";

" "contributions equivalent premium" means a premium under Article 44(**b**) of the Pensions Order;";

" "occupational pension scheme" has the meaning given in Article 2(2) of the Pensions Order;";

" "the Pensions Order" means the Social Security Pensions (Northern Ireland) Order 1975(**c**) and;";

" "personal pension scheme" has the meaning given in Article 2(1) of the Social Security (Northern Ireland) Order 1986(**d**);"; and

(*b*) in paragraph (7)(*a*)(i), there shall be deleted the words ", special services or extra duties".

5. In regulation 16B(**e**) (Return of contributions by deduction from salary)—

(*a*) in paragraph (1), for the words from "five years" to "that age" there shall be substituted the words "whole years, selected by the teacher, not exceeding 5 and ending before his 61st birthday"; and

(*b*) in paragraph (6), for the words "of regulation 17(2), the payments" there shall be substituted the words "or if —

(*a*) any instalment payable pursuant to such an election is not paid by the due date; and

(*b*) he does not within 3 months after that date pay the amount then outstanding to the Department in a single payment, adjusted to take account of the premature payment,

the payments".

6. In regulation 17(7)(**f**) (Return of contributions by payment of instalments)—

(**a**) Schedule 1A was inserted by S.I. 1985/1209 (N.I. 16) Schedule 1 paragraph 3 and amended by S.I. 1986/1888 (N.I. 18) Schedule 9 paragraphs 23 and 24

(**b**) Article 44 was amended by S.I. 1985/1209 (N.I. 16) Schedule 5 paragraph 17 and by S.I. 1986/1888 (N.I. 18) Schedule 9 paragraph 12

(**c**) S.I. 1975/1503 (N.I. 15)

(**d**) S.I. 1986/1888 (N.I. 18)

(**e**) Regulation 16B was inserted by S.R. 1987 No. 76

(**f**) Regulation 17(7) was substituted by S.R. 1987 No. 76

(*a*) there shall be deleted the word ''outstanding''; and

(*b*) after the words "fell due" there shall be inserted the words ", then unless within 3 months after that date he pays the amount then outstanding to the Department in a single payment, adjusted to take account of the premature payment".

7. For regulations 31 to 41(**a**) (Special contributions) there shall be substituted the following:

"*Additional contributions for family benefits*

31.—(1) Parts I and III of Schedule 3 have effect for enabling men and unmarried women to pay additional contributions ("family benefit contributions") in order to secure, or to increase, family benefits in respect of reckonable service before 1st April 1972.

(2) Parts II and III of Schedule 3 have effect for enabling married women to pay family benefit contributions in respect of reckonable service before 6th April 1988.".

8. For regulation 57(9)(**b**) there shall be substituted the following—

"(9) In this Section "member" and "credited service" have the same meaning as in Schedule 3.".

9. In regulation 61(**c**) (Entitlement to long-term family benefits)—

(*a*) in paragraph (2)(*g*), there shall be substituted for the words "in respect of which a deduction falls to be made under regulation 41(1)" the words "that fell to be calculated in accordance with paragraph 7(3) of Schedule 3";

(*b*) in paragraph (3)(*a*) for the words ", (*d*) and (*e*)" there shall be substituted the words "and (*d*)";

(*c*) at the end of paragraph (3)(*b*) for the full stop there shall be substituted the following:

"; and

(*c*) any period for which family benefit contributions have been paid under Section C of Part II in accordance with an election made under Part II of Schedule 3; and

(*d*) if the deceased became employed in reckonable service after 5th April 1988, any period falling within paragraph (2)(*e*).".; and

(*d*) in paragraph (8) there shall be substituted for the words "the Social Security Pensions (Northern Ireland) Order 1975(**a**)" the words "the Pensions Order".

10. In regulation 62(**d**) (Amounts of widows' and nominated beneficiaries' long-term pensions)—

(**a**) Relevant amendments to Regulations 32, 39 and 41 are S.R. 1978 No. 147, S.R. 1980 No 305, S.R. 1982 No 346 and S.R. 1987 No. 315
(**b**) Regulation 57(9) was substituted by S.R. 1988 No. 363
(**c**) Regulation 61 was substituted by S.R. 1988 No. 363
(**d**) Regulation 62 was substituted by S.R. 1988 No. 363

(*a*) for paragraph (2)(*a*) and (*b*) there shall be substituted the following:

"(*a*) paragraph 16 of Schedule 3 applies; and

(*b*) a person entitled to limit the amount of the deduction or lump sum has done so,"; and

(*b*) in paragraph (3)(*b*) for the words "in respect of which a deduction falls to be made under regulation 41(1)" there shall be substituted the words "that fell to be calculated in accordance with paragraph 7(3) of Schedule 3".

11. In regulation 73B(**a**) (teacher with a guaranteed minimum) for the words "the Social Security Pensions (Northern Ireland) Order 1975 ("the Pension Order")" there shall be substituted the words "the Pensions Order".

12.—(1) In regulation 74(1)(*b*), (Interchanges, etc.) for the words "or under Chapter II of Part II of the Finance Act 1970 or" there shall be substituted the words "or a scheme approved under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988(**b**) (other than one falling within section 591(2)(*h*) of that Act) or a scheme".

(2) For regulations 75(**c**) to 78 there shall be substituted the following:

"*Payment of transfer values*

75.—(1) Subject to paragraphs (2) to (7), a transfer value is to be paid in respect of a person who has ceased to be employed in reckonable service and has become subject to an approved superannuation scheme or personal pension scheme ("the receiving scheme").

(2) The person must have made a written application to the Department, within 12 months after the day on which he became subject to the receiving scheme, for the transfer value to be paid.

(3) A transfer value is not to be paid if one was paid before 1st March 1989 in relation to the same transfer.

(4) A transfer value is not to be paid in respect of a person who, when the application was received, had become entitled under regulation 48 to payment of allowances or under regulation 42(2) or 52 to an annuity or short service gratuity, unless the employment in which he has become subject to the receiving scheme is comparable Northern Ireland service and he entered it—

(*a*) immediately after ceasing to be employed in reckonable service; or

(*b*) on or before his 60th birthday,

and has not applied for payment of any benefit.

(5) A transfer value is not to be paid if the receiving scheme is an approved superannuation scheme which is administered wholly or primarily in the United Kingdom and is not a contracted-out scheme, unless the person—

(**a**) Regulation 73B was substituted by S.R. 1988 No. 363
(**b**) 1988 c.1
(**c**) Regulation 75(1) was amended by S.R. 1978 No. 351

(*a*) has been employed in reckonable service for less than 2 years or is not qualified for benefits;

(*b*) ceased to be employed in reckonable service before 6th April 1978; or

(*c*) is a married woman or widow who, by virtue of an election made or treated as made under regulations under Article 5 of the Pensions Order, either is liable to pay primary Class 1 contributions or Class 2 contributions at a reduced rate or is under no liability to pay Class 2 contributions.

(6) A transfer value is not to be paid if the person has acquired a right to a cash equivalent, unless—

(*a*) the service to which the cash equivalent relates includes service before 1st March 1989; and

(*b*) the right has been exercised by requiring the whole of the cash equivalent to be paid to the person responsible for the management of an approved superannuation scheme which is not a club scheme.

(7) A transfer value is not to be paid if the person—

(*a*) has acquired a right to a part cash equivalent; and

(*b*) would on taking that right remain qualified for an annual allowance and an additional allowance under regulation 48.

Amounts of transfer values

76.—(1) Part 1 of Schedule 6 has effect, subject to paragraphs (2) and (3), for determining the amounts of transfer values payable under regulation 75.

(2) Unless the receiving scheme is a club scheme, where—

(*a*) the person in respect of whom a transfer value is payable had become entitled to count reckonable service under regulation 78; and

(*b*) the amount determined in accordance with Part I of Schedule 6, together with that of any cash equivalent paid on the transfer, is less than the appropriate amount,

a transfer value of the appropriate amount is to be paid.

(3) The appropriate amount is A + B − C, where —

A is the transfer value received under regulation 78;

B is the total of the contributions paid by the person under Part II, except any that fell to be treated as employer's contributions; and

C is any cash equivalent paid on the transfer.

Termination of right to count reckonable service

77. A person —

(*a*) in respect of whom a transfer value has been paid under regulation 75; or

(*b*) who has acquired a right to a cash equivalent and exercised the option to take that right,