1988 No. 72

EDUCATION

The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1988

Made . . . . . *8th March 1988*

Coming into operation . . *11th April 1988*

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Citation and commencement
2. Interpretation
3. Teachers to whom the Regulations apply

PART II

COMPENSATION IN CERTAIN CASES OF REDUNDANCY

4. Compensation for redundancy

PART III

COMPENSATION FOR PREMATURE RETIREMENT

5. Discretion to credit an additional period of service
6. Lump sum compensation and annual compensation
7. Allocation of part of annual compensation
8. Short-term compensation on death
9. Long-term compensation on death
10. Duration of compensation on death

PART IV

ADJUSTMENTS

11. Adjustments on account of redundancy payments
12. Adjustments on account of certain lump sum payments
13. Adjustments on account of certain periodic payments
14. Adjustments during new employment
15. Adjustments on cessation of new employment in reckonable service

PART V

MISCELLANEOUS AND SUPPLEMENTAL

16. Payment of compensation
17. Supply of information
18. Compensation not assignable

SCHEDULE — Adjustments to take account of previous compensation

The Department of Education, in exercise of the powers conferred on it by Article 19(1), (3) and (4) of and paragraph 9 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(**a**), and of every other power enabling it in that behalf with the consent of the Department of Finance and Personnel(**b**), hereby makes the following Regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1988 and shall come into operation on 11th April 1988.

Interpretation

2.—(1) Any reference in these regulations to the annual rate of compensation payable to a credited teacher immediately before the date of his death shall, if he died before he had been credited with an additional period of service under regulation 5, be construed as a reference to the annual rate of compensation which would have been payable if he had been so credited before his death.

(2) In these regulations—

"the Act of 1965" means the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(**c**);

"the Act of 1971" means the Pensions (Increase) Act (Northern Ireland) 1971(**d**);

"annual compensation" means such compensation in accordance with the provisions of these regulations;

"average salary" has the meaning assigned to it by regulation 6(**e**) of the Superannuation Regulations;

"board" means an education and library board.

"child" in relation to a person means—

(**a**) S.I. 1972/1073 (N.I. 10)
(**b**) Formerly Department of Finance: *see* S.I. 1981/378 (N.I. 6) Article 3
(**c**) 1965 c. 19 (N.I.)
(**d**) 1971 c. 35 (N.I.)
(**e**) Regulation 6 was amended by S.R. 1987 No. 76 and S.R. 1987 No. 315

(*a*) a child (including an illegitimate child or an adopted child) of that person, or

(*b*) a child accepted by that person as a member of the family and wholly or mainly dependent on him,

who has not attained the age of 17 years or who, having attained the age of 17 years, is receiving full-time education or attending a course of not less than two years' full-time training for a trade, profession or calling; and a person who has continued receiving full-time education after having attained the age of 17 shall be regarded as receiving such education up to (but not including) the first Monday in January, the first Monday after Easter Monday or the first Monday in September next following the end of the term in which in fact he last receives full-time education;

but does not include—

(*a*) a child who is married; or

(*b*) a child who is for the time being in receipt of disqualifying income;

but a person who, being a child as so defined and in receipt of benefit under these regulations, is incapacitated on the day on which, by virtue of this definition, he would otherwise cease to be a child, shall be regarded as continuing to be a child for the purpose of these regulations for so long as that incapacity persists;

and ''incapacitated'', in relation to a child, means incapacitated during any period in which he is, in the opinion of the Department, incapable by reason of infirmity of the mind or body of earning his livelihood and he is not being maintained out of money provided by or under a statutory provision;

''compensating authority'' means the employing authority;

''comparable Northern Ireland Service'' has the meaning assigned to it by regulation 2(1) of the Superannuation Regulations;

''credited teacher'' means an eligible teacher who has been credited (whether before or after his death) with an additional period of service in accordance with regulation 5;

''Department'' means the Department of Education;

''disqualifying income'' means remuneration payable to a person attending a course of full-time training which is payable at a rate not less than that at which an official pension (within the meaning of the Act of 1971) would be payable if the person concerned had been entitled to such a pension at the basic rate of £250 a year which began on 1st April 1972;

''eligible teacher'' has the meaning assigned thereto by regulation 3;

''employing authority'', in relation to an eligible teacher, means a board, board of governors or other person or body by whom he is employed at the material date;

''excepted payment'' means any of the following payments, that is to say—

(*a*) a redundancy payment in respect of the cessation of the teacher's former employment so, however, that where the amount thereof has been reduced in pursuance of the Contracts of Employment and Redundancy (Pensions) Regulations (Northern Ireland) 1965(**a**) it shall be deemed not to have been so reduced;

(*b*) any payment in lieu of notice of termination of the teacher's former employment which does not exceed the remuneration he would have received in respect of the three months following the material date had that employment not been terminated; or, where the payment in lieu of notice of termination of that employment does exceed that remuneration, so much of that payment as is equal to that remuneration;

"former employment", in relation to an eligible teacher or a credited teacher, means employment of the kind referred to in regulation 3(1)(*a*) in relation to which the condition specified in regulation 3(2)(*a*) is satisfied;

"lump sum compensation" means such compensation in accordance with the provisions of these regulations;

"material date", in relation to an eligible teacher or a credited teacher, means the date upon which he ceased to hold his former employment;

"new employment" has the meaning assigned thereto by regulation 14(2);

"nominated beneficiary", in relation to a deceased credited teacher, means a person who is such for the purposes of Section B of Part III of the Superannuation Regulations;

"occupational pension" means a pension by way of periodical payments which is an occupational pension within the meaning of Article 2(1) of the Social Security Pensions (Northern Ireland) Order 1975(**b**) other than a pension payable under the Superannuation Regulations;

"periodic payments" means any payments which are in respect of neither a lump sum nor a return of contribution;

"reckonable service" and "employment in reckonable service", in relation to any teacher, have the same meaning as in the Superannuation Regulations;

"redundancy payment" means in relation to the former employment of a credited teacher, the aggregate of—

(*a*) the redundancy payment to which he is entitled under the Act of 1965(**c**);

(*b*) any increase in such a payment paid by the employing authority before 18th August 1986 such that the payment, as so increased, corresponded to that which would have been payable had the Redundancy Payments (Local Government etc) (Modification) (Northern Ireland) Order 1986(**d**) been in operation on the material date,

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(**a**) S.R. & O. 1965 No. 246
(**b**) S.I. 1975 No. 1503 (N.I. 15)
(**c**) 1965 c. 19 (N.I.)
(**d**) S.I. 1986 No. 206

(*c*) any compensation paid to him by the employing authority under regulation 4, or of an amount corresponding to that which would have been payable under regulation 4 had it been in operation on the material date;

in respect of the cessation of that employment;

"salary" has the meaning assigned to it by regulation 2(7) of the Superannuation Regulations;

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

"teacher" has the meaning assigned to it by regulation 2(1) of the Superannuation Regulations.

Teachers to whom the Regulations apply

3.—(1) These regulations (with the exception of regulation 4) shall apply in the case of a teacher—

(*a*) who, immediately before the material date, was in such employment in reckonable service as is mentioned in Schedule 1 of the Superannuation Regulations(**b**), and

(*b*) in relation to whom each of the conditions specified in paragraph (2) and as appropriate the further condition contained in paragraph (3) is satisfied;

and any such teacher is referred to in these regulations as an "eligible teacher".

(2) The conditions referred to in paragraph (1)(*b*) are that—

(*a*) his employment has been terminated on or after 14th July 1978 and his employing authority has given written notice to the Department certifying that such termination was by reason of his redundancy or in the interests of the efficient discharge of the employer's functions;

(*b*) on ceasing to hold that employment—

(i) he had attained the age of 50 years but had not attained the age of 65 years; and

(ii) he becomes entitled under the Superannuation Regulations to receive an annual allowance and an additional allowance otherwise than by virtue of regulation 48(1)(*a*)(iii)(**c**) or regulation 48(1)(*c*) thereof (whether he has applied for such an allowance or not).

(3) For the purpose of applying these regulations termination of employment in the interests of the efficient discharge of the employer's functions shall be subject to the Department approving the reason for the retirement of the teacher.

(a) S.R. 1977 No. 260 as amended by S.R. 1978 No. 147, S.R. 1978 No. 531, 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 and S.R. 1987 No. 315

(b) Schedule 1 was amended by S.R. 1980 No. 305, S.R. 1987 No. 76 and S.R. 1987 No. 315

(c) Regulation 48(1)(*a*)(iii) was added by regulation 7(1) of S.R. 1978 No. 351