1982 No. 162

EDUCATION

Teachers' Superannuation (War Service) Regulations (Northern Ireland) 1982

Made	*28th May 1982*
Coming into operation	*14th July 1982*

The Department(**a**) of Education, in exercise of the powers conferred on it by Articles 11 and 14 of and Schedule 3 to the Superannuation (Northern Ireland) Order 1972(**b**) and of every other power enabling it in that behalf, and after consultation with representatives of education and library boards and of teachers and such representatives of other persons likely to be affected by the regulations as appeared 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(**c**) hereby makes the following regulations:

PART I

GENERAL

Citation and commencement

1.—(1) These regulations may be cited as the Teachers' Superannuation (War Service) Regulations (Northern Ireland) 1982.

(2) These regulations shall come into operation on 14th July 1982 and shall have effect as from 1st April 1978.

Interpretation

2. In these regulations

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

"the Teachers' Superannuation Acts" means the Teachers (Superannuation) Act (Northern Ireland) 1950(**e**), the Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1951(**f**), the Teachers (Superannuation) (Amendment) Act (Northern Ireland) 1956(**g**), the Teachers (Superannuation) (Amendment) Act (Northern Ireland) 1963(**h**), and the Teachers Superannuation (Amendment) Act (Northern Ireland) 1967(**i**);

"the principal provisions" means a "1923 Act Scheme" (as defined by section 44(1) of the Teachers (Superannuation) Act (Northern Ireland) 1950(**e**)), the Teachers Superannuation Acts, and regulations under Article 11 of the Superannuation (Northern Ireland) Order 1972(**b**);

(a) Formerly Ministry: *see* Northern Ireland Constitution Act 1973 (c. 36) Sch. 5 para. 8(1)
(b) S.I. 1972/1073 (N.I. 10)
(c) Formerly Ministry of Finance: *see* Northern Ireland Constitution Act 1973 (c. 36) Sch. 5 para. 8(1) and S.I. 1982/338 (N.I. 6) Art. 3
(d) 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 and S.R. 1982 No. 12
(e) 1950 c. 33 (N.I.)
(f) 1951 c. 28 (N.I.)
(g) 1956 c. 22 (N.I.)
(h) 1963 c. 7 (N.I.)
(i) 1967 c. 3 (N.I.)

"annual allowance" and "additional allowance" have the meaning assigned to them in regulation 2(3) of the 1977 regulations;

"reckonable service" means service within the meaning of the Teachers Superannuation Regulations (Northern Ireland) 1972(a), or the 1977 regulations, or, as the case may be, recognised or contributory service within the meaning of the Teachers' Superannuation Acts;

"teacher" includes a teacher in receipt of an annual allowance, and a deceased teacher;

"transferred provision" has the meaning assigned to it by section 1(*g*) of the Interpretation Act (Northern Ireland) 1954(b);

any reference to entitlement to count or reckon service includes a reference to entitlement to count or reckon service in the case of a deceased teacher and where a deceased teacher died before 1st April 1978 any reference to age on that date shall be construed as a reference to the age that the deceased teacher would have been on that date had he not so died.

Public service pension scheme

3.—(1) For the purposes of regulations 5(1), 10 and 12(1) "public service pension scheme" means an occupational pension scheme, other than a scheme mentioned in paragraph (2), established by or under a transferred provision, the Royal Prerogative or a Royal Charter being a scheme—

(*a*) all the particulars of which are set out in a transferred provision, Royal Warrant or Charter, or

(*b*) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department, including a United Kingdom government department;

and for the purposes of these regulations, the Universities Superannuation Scheme shall be regarded as a public service pension scheme.

(2) The schemes excluded from the definition in paragraph (1) are—

(*a*) the schemes to which the qualifying service in the first column of Schedule 1 refer;

(*b*) a scheme comprised in regulations extending to England and Wales only from time to time in force under section 9 of the Superannuation Act 1972(c), the Teachers' Superannuation Act 1967(d), the Teachers' Superannuation Act 1965(e) or the Teachers (Superannuation) Act 1925(f); or

(*c*) a scheme comprised in regulations extending to Scotland only from time to time in force under section 9 of the Superannuation Act 1972(c), the Teachers Superannuation (Scotland) Act 1968(g) or section 102 of the Education (Scotland) Act 1962(h) or comprised in a Teachers Superannuation Scheme (within the meaning of section 145(47) of the said Act of 1962) from time to time in force;

(a) S.R. & O. (N.I.) 1972 No. 319
(b) 1954 c. 33 (N.I.)
(c) 1972 c. 11
(d) 1967 c. 12; repealed with savings by section 29 of the Superannuation Act 1972 (c. 11)
(e) 1965 c. 83; repealed with savings by section 17 of the Teachers' Superannuation Act 1967 (c. 12)
(f) 1925 c. 59; repealed with savings by section 5 of the Teachers' (Superannuation) Act 1937 (c. 47), sections 2 and 8 of the Teachers' Superannuation Act 1965 (c. 83) and section 17 of the Teachers' Superannuation Act 1967 (c. 12)
(g) 1968 c. 12; partially repealed with savings by section 29(4) of the Superannuation Act 1972 (c. 11)
(h) 1962 c. 47; partially repealed with savings by sections 21 and 22 of the Teachers' Superannuation (Scotland) Act 1968 (c. 12)

(*d*) a scheme comprised in regulations from time to time in force under section 7 of the Superannuation Act 1972(**a**), or the Local Government (Superannuation) Acts 1937 to 1953(**b**), or the Local Government Superannuation (Scotland) Acts 1937 to 1953(**c**) or comprised in a Local Act scheme (within the meaning of any of these Acts) from time to time in force; or

(*e*) a scheme comprised in regulations or rules from time to time in force under Article 9 of the Superannuation (Northern Ireland) Order 1972(**d**) or the Local Government (Superannuation) Acts (Northern Ireland) 1950 to 1966(**e**) or a local scheme (within the meaning of Article 10 of the said Order of 1972).

War service provisions of a pension scheme

4. For the purposes of regulation 10(1)(*f*) and Part I of Schedule 2, "war service provisions" means provisions having the effect of regulations 2 to 7 of the Teachers' Superannuation (War Service and Amendment) Regulations (Northern Ireland) 1975(**f**).

Pensionable emoluments

5.—(1) For the purposes of regulations 11 and 13(2) "pensionable emoluments" means—

(*a*) in the case of a person who on 1st April 1978 was in employment or service by reason of which he was subject to a public service pension scheme, the annual value of those of his emoluments which at that date were pensionable;

(*b*) in the case of a person who on 1st April 1978 had ceased to be in such employment or service (including a person who had died), the annual value of the emoluments (whether actual emoluments or not and whether final or average emoluments) by reference to which any earnings-related pension payable to or in respect of him is or would be computed under a public service pension scheme (either directly or by reference to the rate of some other earnings-related pension) increased, however, according to the date on which that pension began or would have begun, by the appropriate percentage (or multiplier and further percentage) mentioned in the Schedule to the Pensions Increase (Annual Review) Order (Northern Ireland) 1977(**g**).

(2) In paragraph (1)(*b*) "earnings-related pension" has the meaning assigned thereto by section 15(1) of the Pensions (Increase) Act (Northern Ireland) 1971(**h**).

(3) In paragraph (1)(*b*) the provisions of section 8(2) of the Pensions (Increase) Act (Northern Ireland) 1971(**h**) shall apply for the purposes of determining the date on which a pension began and the date on which a pension would have begun shall be determined accordingly.

Superannuation benefits and transfer values

6. Where under these regulations a teacher is entitled to count reckonable service for the purposes of the principal provisions—

(**a**) 1972 c. 11
(**b**) 1937 c. 68; 1939 c. 18 (in part); 1953 c. 25; partially repealed with savings by section 29 of the Superannuation Act 1972 (c. 11)
(**c**) 1937 c. 69; 1939 c. 18 (in part); 1953 c. 25; partially repealed with savings by section 29 of the Superannuation Act 1972 (c. 11)
(**d**) S.I. 1972/1073 (N.I. 10)
(**e**) 1950 c. 10 (N.I.); 1951 c. 9 (N.I.); 1951 c. 28 (N.I.) (in part); 1966 c. 38 (N.I.) (in part); partially repealed with savings by Article 23 of the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10))
(**f**) S.R. 1975 No. 136
(**g**) S.R. 1977 No. 277
(**h**) 1971 c. 35 (N.I.)

(*a*) any benefit by way of periodical payments payable in respect of a period commencing on or after 1st April 1978 shall be calculated or recalculated accordingly;

(*b*) any benefit by way of a lump sum except where a teacher died before 1st April 1978 shall be calculated or recalculated accordingly (in the case of an additional allowance, the reckonable service being treated as service before the beginning of October 1956), and

(*c*) any transfer value which becomes or became payable in respect of a teacher who ceased to be employed in reckonable service on or after 1st April 1978 shall be calculated or recalculated accordingly, but no additional payment shall be made in respect of a transfer value unless the person or authority to whom it would be paid satisfies the Department that the making of the additional payment would entitle the teacher concerned to reckon additional service for superannuation purposes.

Duplication of periods of war service and contributions

7.—(1) Where, apart from these regulations, a teacher would be entitled to count reckonable service by reason of his war service then, notwithstanding anything in Part II or III, he shall not be entitled so to count such war service under these regulations.

(2) No provisions of the principal provisions relating to contributions in respect of war service or the counting of such service has any application to reckonable service which a teacher is entitled to count under Part II or III.

(3) No provisions of the principal provisions relating to the reduction, by way of national insurance modification, of an annual allowance has any application as respects reckonable service which a teacher is entitled to count under Part II or III and, accordingly, such reckonable service shall be treated for the purposes of—

(*a*) Schedule 8 to the 1977 regulations;

(*b*) Schedule 5 to the Teachers' Superannuation Regulations (Northern Ireland) 1972(**a**), and

(*c*) the National Insurance (Modification of Teachers' Annual Allowances) Regulations (Northern Ireland) 1951(**b**),

as reckonable service before 1st July 1948 or, as the case may be, before the relevant date or the date of modification.

(4) In paragraph (3) "the relevant date" has the meaning assigned thereto in paragraph 4(3) of Schedule 8 of the 1977 regulations.

PART II

WAR SERVICE RECKONABLE WITHOUT RECEIPT OF A TRANSFER VALUE

Eligibility to count war service without transfer payment

8.—(1) In this Part—

"qualifying service" means service or employment of a type mentioned in the first column of Schedule 1;

"war service" means in relation to a type of service or employment mentioned in the first column of Schedule 1 such war service as is set opposite thereto in column 3.

(2) This Part shall apply, subject to a claim in that behalf being made, in the case of a teacher who—

(**a**) S.R. & O. (N.I.) 1972 No. 319
(**b**) S.R. & O. (N.I.) 1951 No. 129 (p. 101)

(*a*) counted reckonable service by virtue of a period of qualifying service either on 1st April 1978 or, where he died before that date but after 31st August 1974, immediately before his death, and

(*b*) satisfies the condition specified opposite his qualifying service in the second column of that Schedule.

(3) In the case of a teacher who has undertaken more than one period of qualifying service only the first period of such service shall be taken into account for the purposes of this Part.

(4) The Department may require that any claim that a teacher satisfies the condition referred to in paragraph (2)(*b*) or as to the duration of his war service be supported by a certificate given by or on behalf of the person responsible for the management of the pension scheme appropriate to his qualifying service and the Department shall be entitled to rely upon a certificate so given.

Proportion of war service to count as reckonable service

9.—(1) In the case of a teacher to whom this Part applies, the following proportion of his war service shall, subject to paragraph (2), count as reckonable service for the purposes of the principal provisions, namely—

(*a*) 63⅓% thereof, where the qualifying service is fire or police service or fire or police service undertaken in England and Wales or Scotland, or

(*b*) 47% thereof, in any other case.

(2) The provisions of Schedule 2 shall have effect in relation to family benefits and related matters.

PART III

WAR SERVICE RECKONABLE ON RECEIPT OF AN ADDITIONAL TRANSFER VALUE

Eligibility to count war service with transfer payment

10.—(1) This Part shall apply, subject to a claim in that behalf being made, in the case of a teacher—

(*a*) with war service within the meaning of such a public service pension scheme as is mentioned in regulation 3(1);

(*b*) who ceased to be in service or employment, to which the public service pension scheme applied, at a time when he was unable to reckon war service for the purposes of that scheme but would have become able so to reckon war service had he continued in that service or employment;

(*c*) in respect of whom a transfer value became payable to the Department before 1st April 1978 which took account of the service or employment referred to in sub-paragraph (*b*);

(*d*) who, by reason of that transfer value, was on 1st April 1978 entitled to count reckonable service for the purposes of the principal provisions;

(*e*) in respect of whom the Department subject to paragraph (2), accepts an additional transfer value calculated by reference to his war service in like manner as a transfer value under Part IV falls to be calculated and paid in pursuance of such a public service pension scheme; and

(*f*) who was alive on the date from which war service provisions (within the meaning of regulation 4) had effect in the public service pension scheme in pursuance of which that additional transfer value is paid.

(2) The Department shall not accept an additional transfer value calculated by reference to war service within the meaning of the public service pension scheme to which the teacher was subject by reason of previous service or employment if—