1980 No. 306

EDUCATION

Teachers' Salaries (Maternity Absence) Regulations (Northern Ireland) 1980

Made	*9th September 1980*
Coming into operation . . .	*12th October 1980*

The Department (a) of Education, in exercise of the powers conferred on it by Articles 57(1)(b), 58(2)(c) and 125(1) of the Education and Libraries (Northern Ireland) Order 1972(d) and of every other power enabling it in that behalf, after consultation with the Department(a) of Finance as required by Article 57(1) of that Order hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Teachers' Salaries (Maternity Absence) Regulations (Northern Ireland) 1980 and shall come into operation on 12th October 1980.

Revocation

2. The Teachers' Compulsory Absence and Maternity Leave Regulations (Northern Ireland) 1976(e), the Teachers' Compulsory Absence and Maternity Leave (Amendment No. 2) Regulations (Northern Ireland) 1977(f) and the Teachers' Compulsory Absence and Maternity Leave (Amendment) Regulations (Northern Ireland) 1978(g) are hereby revoked.

Interpretation

3. In these regulations—

"the Act of 1975" means the Social Security (Northern Ireland) Act 1975(h);

"employing authority" means a board or in the case of a school which is not under the management of a board the managers of that school;

"full-time teacher" means a teacher (including a peripatetic teacher or a supply teacher) in respect of whose employment an agreement is required under Article 58(3) of the Order and a temporary teacher who is paid salary under the salaries regulations as though she was employed in a permanent capacity;

"institution" means an institution of further education which is grant-aided by the Department and in which a board provides facilities for further education;

"the Order" means the Education and Libraries (Northern Ireland) Order 1972;

"part-time teacher" means a teacher who teaches for at least 10 hours per week and who under the salaries regulations for such teaching is paid as a part-time teacher the proportion (corresponding to the hours spent by her on teaching duties) of annual salary which would have been paid to her if she were a full-time teacher;

(a) Formerly Ministry: *see* 1973 c. 36 s. 40 and Sch. 5 para. 8(1)
(b) As amended by S.I. 1978/1040 (N.I. 10) Art. 8(2)
(c) As amended by S.I. 1978/1040 (N.I. 10) Art. 8(3)
(d) S.I. 1972/1263 (N.I. 12)
(e) S.R. 1976 No. 323 (II, p. 1644)
(f) S.R. 1977 No. 215 (II, p. 1211)
(g) S.R. 1978 No. 294 (II, p. 1020)
(h) 1975 c. 15

"salaries regulations" means the Teachers' Salaries Regulations (Northern Ireland) 1978(i) or the Institutions of Further Education Salaries Regulations (Northern Ireland) 1976(j) or any regulations superseding or replacing either or both of those regulations;

"salary" means the salary and allowances (other than an allowance paid under Regulation 26 of the Teachers' Salaries Regulations (Northern Ireland) 1978 or Regulation 10 of the Institutions of Further Education Salaries Regulations (Northern Ireland) 1976) which are payable under the salaries regulations;

"school" means a grant-aided school other than a technical intermediate school;

"teacher" means a teacher employed in a school or institution or a teacher employed by a board as a peripatetic teacher or a supply teacher.

Commencement and duration of absence

4.—(1) Subject to the provisions of paragraphs (2) and (3) and Regulation 5, a full-time teacher or a part-time teacher may, because of her pregnancy and anticipated childbirth, be permitted to be absent from her teaching duties for a period commencing not earlier than the beginning of the eleventh week before the week in which her confinement is expected to take place and ending not later than the expiration of the eighteenth week after the commencement of such period of absence.

(2) A teacher mentioned in paragraph (1) may continue to attend to her teaching duties after the beginning of the eleventh week before the beginning of the week in which her confinement is expected to take place but shall not continue to attend to her teaching duties if she is certified unfit on medical grounds so to do.

(3) For the purpose of calculating a period of permitted absence:

(*a*) the period of absence shall be continuous and shall commence not later than the date of confinement;

(*b*) teaching duties shall be considered as being capable of performance during any part of a year whether the school or institution is in operation or not and during any period when the school or institution is not in operation a teacher shall be considered to be absent from her teaching duties; and

(*c*) during any period when a peripatetic or supply teacher is not required to perform teaching duties she shall be considered to be absent from her teaching duties.

(4) For the purpose of this regulation and regulation 6 a week shall be taken as the period of seven days beginning on a Sunday and ending on the following Saturday.

Notice to be given by a teacher

5.—(1) A teacher—

(*a*) who because of her pregnancy and anticipated childbirth wishes to be absent from her teaching duties; and

(*b*) who immediately prior to the commencement of that absence will have served in the United Kingdom as a full-time teacher for a period of not less than one year or as a part-time teacher for a period of not less than 2 years;

shall not less than 14 weeks, or such later date as her employing authority may agree to accept before the date of her expected confinement, give notice in writing to her employing authority of her intention to absent herself from her teaching duties.

(i) S.R. 1978 No. 129 (I, p. 398) as amended by S.R. 1979 No. 245 (II, p. 1176); S.R. 1980 No. 78, S.R. 1980 No. 219 and S.R. 1980 No. 295

(j) S.R. 1976 No. 141 (I, p. 606) as amended by S.R. 1977 No. 141 (I, p. 485); S.R. 1978 No. 153 (I, p. 516); S.R. 1979 No. 297 (II, p. 1362); S.R. 1980 No. 20, S.R. 1980 No. 79, S.R. 1980 No. 220 and S.R. 1980 No. 298

(2) The period of service required by paragraph (1)(*b*) for a full-time teacher shall be continuous service and shall include a period of not less than 3 months service in Northern Ireland immediately before the date of the commencement of the proposed absence.

(3) The period of service required by paragraph (1)(*b*) for a part-time teacher shall be continuous service and shall include a period of not less than 6 months service in Northern Ireland immediately before the date of the commencement of the proposed absence.

(4) A teacher mentioned in paragraph (1) who has given notice in accordance with the provisions of that paragraph shall on a form supplied by the Department for that purpose also give notice to her employing authority not less than 3 weeks before the date of the commencement of her proposed absence, or if this is not reasonably practicable as soon as shall be reasonably practicable, of the date upon which she wishes her intended absence to commence and of whether she wishes to exercise her right to return to work at the conclusion of the period of such absence.

(5) For the purposes of this Regulation and of paragraphs (1) and (4) of Regulation 10 a teacher shall be considered to be employed as a full-time teacher or as a part-time teacher for any period during which while employed as a teacher she attends a course of study or a course of training which has been approved by the Department.

Additional benefits for teachers with longer service

6.—(1) A teacher who has absented herself from teaching duties under the provisions of regulation 4 and who, at the beginning of the eleventh week before the week in which her confinement is expected to take place, has served either as a full-time teacher for a continuous period of not less than 2 years before that date or as a part-time teacher for a continuous period of not less than 4 years before that date may be absent from her teaching duties for a period not exceeding twenty-nine weeks commencing the beginning of the week in which her confinement takes place.

(2) A teacher mentioned in paragraph (1) shall not less than 7 days before the date on which she intends to return to her teaching duties give notice in writing to her employing authority of her intention to return to such duties after her confinement.

(3) Where a teacher has exercised her rights under paragraph (1) and has notified her employing authority of the date on which she intends to return to her teaching duties after her confinement, the employing authority may give her notice in writing before the date on which she intends to return to such duties requiring her to postpone her return for a period of not more than 4 weeks after that date. A notice so given by that teacher's employing authority shall state the reason for the postponement of her return to her teaching duties.

Entitlement to salary

7. A teacher shall not, except as provided in these regulations, be entitled to be paid any salary in respect of any period during which she is absent because of pregnancy or childbirth and any such period of absence shall not be considered as absence arising from illness.

Rate of salary during absence

8. A teacher who complies with the requirements of Regulations 4, 5 and 10(1) shall during her absence from her teaching duties in consequence of her pregnancy and childbirth, actual or expected, be entitled to be paid salary as follows:

(*a*) in respect of the first 4 weeks of her absence, an amount equivalent to what would have been the amount of her salary for that period of time had she not been absent from her teaching duties reduced by the amount of any maternity allowance (including earnings related supplement and increases for dependants) payable for those weeks under the Act of 1975 or which would

have been so payable if she had satisfied all the requirements of that Act and any regulations made thereunder, but so that the amount payable for any one of those 4 weeks shall not be less than an amount equivalent to 9-10ths of what would have been her salary for that week reduced by the amount of any maternity allowance payable for that week under Part I of Schedule 4 to the Act of 1975 or which would have been so payable if she had satisfied all the requirements of that Act and any regulations made thereunder;

(*b*) in respect of the 5th and 6th weeks of her absence, an amount equivalent to what would have been 9-10ths of her salary for those weeks had she not been absent from her teaching duties reduced by the amount of any maternity allowance payable for those weeks under Part 1 of Schedule 4 to the Act of 1975 or which would have been so payable if she had satisfied all the requirements of that Act and any regulations made thereunder;

(*c*) in respect of the 7th to the 18th weeks of her absence, an amount equivalent to what would have been one-half of her salary for such period of absence, but if the amount payable for such period of absence together with the amount of any maternity allowance (including earnings related supplement and increases for dependants) for such period of absence payable to her under the Act of 1975 or which would have been so payable if she had satisfied all the requirements of that Act and any regulations made thereunder should exceed the amount of salary which would have been payable to her in respect of that period had she not been absent, the amount payable under this paragraph shall be reduced by the amount of that excess;

(*d*) in respect of any remaining period of her permitted absence under Regulation 6 before her return to her teaching duties, nothing.

Increments of salary

9. A period of absence in respect of which payment of salary is made to a teacher in accordance with the provisions of paragraphs (*a*), (*b*) and (*c*) of Regulation 8 shall be taken into account for the purpose of the award of any increment of salary to which that teacher may be entitled.

Conditions attaching to payments

10.—(1) The making of a payment of salary under the provisions of Regulation 8 shall be subject to the teacher—

(*a*) furnishing to the Department, or if the teacher is a teacher in a voluntary grammar school, then to the employing authority of that voluntary grammar school, an undertaking in writing by her to return to her teaching duties following the expiration of a period of absence under Regulations 5 and 6; and

(*b*) on her return serving either as a full-time teacher continuously for a period of at least 13 weeks or as a part-time teacher continuously for a period of at least 26 weeks.

(2) Subject to the provisions of paragraphs (3), (4) and (5), where a teacher (other than a teacher who is within the provisions of Regulation 6(1)) fails to comply with the requirements of paragraph (1) she shall unless she is prevented from returning to her teaching duties by reason of redundancy or her prolonged illness or other unavoidable cause, repay to the person by whom payment thereof was made all moneys paid to her under the provisions of Regulation 8.

(3) A teacher who is within the provisions of Regulation 6(1) may retain moneys paid to her under paragraphs (*a*) and (*b*) of Regulation 8.

(4) Where because of her illness a full-time teacher is unable to return to her teaching duties following the expiration of a period of absence due to pregnancy and anticipated childbirth the period of 13 weeks referred to in paragraph (1)(*b*) shall be reckoned from immediately after the end of that period of illness.

(5) Where a full-time teacher has resumed her teaching duties and furnishes to the Department a certificate from a qualified medical practitioner that she was fit to resume duty on an earlier date, being a date during a period when—

(*a*) the school or institution was closed or the course of full-time study or full-time training which she was attending was not in operation; or

(*b*) in the case of a full-time peripatetic teacher or a full-time supply teacher she was not required to perform her duties;

she shall for the purpose of this regulation be considered as having resumed duty on that earlier date.

Time for payment of salary

11. A payment which falls to be made under Regulation 8 to a teacher shall be made to that teacher by the person by whom her salary was paid immediately before the beginning of the period of her absence in consequence of her pregnancy and anticipated childbirth.

Scope of regulations

12.—(1) Nothing in these regulations shall require a person to employ, or continue to employ, any teacher.

(2) The provisions of these regulations shall not apply to teachers who are pregnant and who decide to exercise the rights in connection with maternity of an employee which are contained in the Industrial Relations (No. 2) (Northern Ireland) Order 1976(**k**).

Sealed with the Official Seal of the Department of Education for Northern Ireland on 9th September 1980.

(L.S.) *A. E. Hawthorne*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations revoke and replace those set out in Regulation 2. Among other things they—

(1) remove the requirement that teachers absent themselves from their teaching duties for 11 weeks before the expected date of childbirth and remain absent for a period of 18 weeks;

(2) extend to:

(*a*) temporary teachers, who are paid under the salaries regulations as though they were employed in a permanent capacity; and

(*b*) part-time teachers, who are paid a proportion of the annual salary which would have been payable if they were employed as full-time teachers,

the arrangements for leave of absence in consequence of pregnancy and anticipation of childbirth and payment of salary during such absence;

(3) include a right for teachers with 2 years continuous full-time or equivalent part-time service to a continued absence for up to 29 weeks beginning with the week in which the date of confinement falls.

(**k**) S.I. 1976/2147 (N.I. 28)