1991 No. 132

EDUCATION

The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991

Made . . . . . *28 March 1991*

Coming into operation . . . . . *1 April 1991*

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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) 1991 and shall come into operation on 1 April 1991.

Interpretation

2.—(1) In these regulations any reference to, or things done or falling to be done under or for the purposes of, any provision of these regulations is, if and so far as the nature of the reference permits, to be construed as including, in relation to circumstances or purposes in relation to which the corresponding provision in the 1988 Regulations has or had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.

(**a**) S.I. 1972/1073 (N.I. 10)
(**b**) Formerly Department of Finance: see S.I. 1982/378 (N.I. 6) Article 3

(2) In these Regulations—

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

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

"the 1988 Regulations" means the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1988(**c**);

"the 1989 Order" means the Education Reform (Northern Ireland) Order 1989(**d**);

"annual allowance" means such an allowance payable under regulation 48(1) of the Superannuation Regulations;

"annual compensation" means annual compensation payable in accordance with regulation 7;

"assumed retirement pension" and "assumed retirement lump sum" are to be construed in accordance with regulation 7(5);

"average salary" has the meaning assigned to it by regulation 6(1) of the Superannuation Regulations;

"board" means an education and library board;

"Catholic maintained school" has the meaning assigned to it by Article 141(3) of the 1989 Order;

"child" in relation to a person means—

(*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

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(**a**) 1965 c. 19 (N.I.)
(**b**) 1971 c. 35 (N.I.)
(**c**) S.R. 1988 No. 72
(**d**) S.I. 1989 No. 2406 (N.I. 20)

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" is to be construed in accordance with regulation 17;

"compensation" means compensation payable in accordance with Parts III and IV;

"the Council" means the Council for Catholic Maintained Schools;

"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 with a period of service under regulation 6 and "credited period" means the period with which he has been so credited;

"delegated budget" in relation to a school, other than a technical secondary school, has the same meaning as in Part V of the 1989 Order and, in relation to an institution of further education (including any technical secondary school conducted in association with the institution), has the same meaning as in Part VII of that Order;

"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 1971 Act) 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 1 April 1972;

"effective service" is to be construed in accordance with regulation 6(2);

"eligible teacher" is to be construed in accordance with regulation 4(3);

"employing authority", in relation to an eligible teacher, means a board, the Council, a Board of Governors of a voluntary grammar school or grant maintained integrated school or any other maintained school which is not a Catholic maintained school or the manager of a voluntary primary school or other person or body by whom he is employed immediately before the material date;

"former employment", in relation to an eligible teacher or a credited teacher, means relevant employment in which he was engaged immediately before the material date and "former employer" means the person who employed him in that employment;

"grant maintained integrated school" has the meaning assigned to it by Article 65(3) of the Education Reform (Northern Ireland) Order 1989;

"lump sum compensation" means lump sum compensation payable under regulation 7;

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

"the Miscellaneous Provisions Regulations" means the Teachers' Superannuation (Miscellaneous Provisions No. 2) Regulations (Northern Ireland) 1988(**a**);

"new employment" has the meaning given in regulation 15(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;

"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 1965 Act(**b**);

(*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(**c**) been in operation on the material date, and

(*c*) any compensation which was paid by the former employer under regulation 5, or was of an amount corresponding to that which would have been payable under that regulation if it had been in operation on the material date;

"relevant employment" shall be construed in accordance with regulation 3;

"salary" shall be construed in accordance with regulation 2(7) of the Superannuation Regulations;

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

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

(3) In these Regulations:

—controlled school;
—grammar school;
—maintained school;
—nursery school;
—primary school;
—secondary school;

(**a**) S.R. 1988 No. 363
(**b**) 1965 c. 19 (N.I.)
(**c**) S.I. 1986 No. 206
(**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. 435, S.R. 1981 No. 151, S.R. 1982 No. 346, S.R. 1987 No. 86, S.R. 1987 No. 315, S.R. 1988 No. 64, S.R. 1988 No. 167, S.R. 1988 No. 363, S.R. 1989 No. 25 and S.R. 1989 No. 181

—special school;
—technical secondary school; and
—voluntary school,

have the meanings respectively assigned to them by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(**a**).

Relevant employment

3.—(1) Where in any case the material date is a date earlier than 6 April 1988, relevant employment for the purposes of these regulations is employment that fell within regulation 3(1) of the 1988 Regulations(**b**).

(2) Where in any case the material date is a date later than 5 April 1988 but earlier than 18 November 1988, relevant employment for the purposes of these regulations is employment that fell within regulation 3(1)(*a*) of the 1988 Regulations or would have done so but for an election under regulation 12 (voluntary membership) of the Miscellaneous Provisions Regulations.

(3) In any other case, relevant employment is employment falling within Schedule I(**c**) of the Superannuation Regulations.

(4) For the purposes of these regulations—

(*a*) employment category A comprises relevant employment—

(i) at a controlled or maintained secondary school (other than a voluntary grammar school), or a controlled grammar school, which for the time being had a delegated budget;

(ii) at a maintained primary school (other than a Catholic maintained or grant maintained integrated school); or

(iii) at any school formerly within category B or category E which has for the time being been given a delegated budget;

(*b*) category B comprises relevant employment at a controlled or Catholic maintained primary or nursery school or institution of further education which for the time being did not have a delegated budget;

(*c*) category C comprises relevant employment at a voluntary primary school which is not a maintained school and which for the time being did not have a delegated budget, a voluntary grammar school or a grant maintained integrated school;

(*d*) category D comprises relevant employment at an institution of further education (including any technical secondary school conducted in association with the institution), which for the time being had a delegated budget;

(*e*) category E comprises relevant employment at a controlled or Catholic maintained special school or a voluntary maintained special school which did not have a delegated budget;

(**a**) S.I. 1986 No. 594 (N.I. 3) as amended by Schedule 9 to the Education Reform (Northern Ireland) Order 1989 No. 2406 (N.I. 20)
(**b**) S.R. 1988 No. 72
(**c**) Schedule 1 was amended by S.R. 1980 No. 305, S.R. 1987 No. 76 and S.R. 1987 No. 315

(*f*) category F comprises relevant employment at any school or institution of further education for which a delegated budget has been suspended under Articles 53(1) or 117(2) of the 1989 Order; and

(*g*) category G comprises relevant employment not falling within categories A to F.

Persons to whom the regulations apply

4.—(1) Part II applies to any person who has become entitled to a redundancy payment under the 1965 Act in consequence of his having—

(*a*) ceased after 11 April 1988 but before 1 April 1991 to be employed in a capacity which was referred to in regulation 4(1) of the 1988 Regulations; or

(*b*) ceased after 31 March 1991 to be employed in relevant employment.

(2) Parts III to V apply to eligible teachers.

(3) An eligible teacher is a person who has ceased to hold his former employment and—

(*a*) who, immediately before the material date, was in relevant employment; and

(*b*) in relation to whom the conditions specified in paragraph (4) are satisfied.

(4) The conditions referred to in paragraph (3)(*b*) are that—

(*a*) when the teacher's employment was terminated he had attained the age of 50 but had not attained the age of 65 years;

(*b*) he then had, or but for an election under regulation 12 of the Miscellaneous Provisions Regulations would have, been employed in reckonable service for the purpose of the Superannuation Regulations for at least 5 years;

(*c*) he had not become entitled to payment of an annual allowance under regulation 48(1)(*c*) of the Superannuation Regulations (incapacity);

(*d*) the former employer has notified the Department that the employment was terminated by reason of his redundancy or in the interests of the efficient discharge of the employer's functions; and

(*e*) in respect of a person whose employment in employment categories C, E or G was terminated in the interests of the efficient discharge of the employer's functions, the Department approves the reason for that termination.

PART II

COMPENSATION FOR REDUNDANCY

Payments for redundancy

5.—(1) Subject always to Articles 58 and 115 of the 1989 Order (determinations by Boards of Governors and governing bodies as to making by

boards of certain payments in respect of dismissal etc), where a person to whom this Part applies has ceased to be employed, the appropriate person may pay him compensation which does not exceed the difference between—

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

(*b*) the redundancy payment to which he would have been so entitled if paragraph 5(4) of Schedule 3 to that Act(**b**) (which requires weekly pay in excess of a specified limit to be disregarded in calculating redundancy payments) had been repealed.

(2) For the purposes of paragraph (1) the appropriate person is—

(*a*) in the case of a teacher who has ceased to be employed at a controlled school or institution of further education, the appropriate board;

(*b*) in the case of a teacher who has ceased to be employed at a Catholic maintained school, the Council for Catholic Maintained Schools;

(*c*) in the case of a teacher who has ceased to be employed at a voluntary maintained primary school, other than a Catholic maintained primary school, the Board of Governors or in the case of a voluntary primary school, which is not a maintained school, the Manager; and

(*d*) in any other case, the person by whom he was formerly employed.

PART III

COMPENSATION FOR PREMATURE RETIREMENT

Additional service credit

6.—(1) The deciding authority may, within 6 months after the material date, credit an eligible teacher with a period of service not exceeding the shortest of—

(*a*) the period by which his effective service falls short of 40 years;

(*b*) the period beginning on the day following the material date and ending with his 65th birthday, less, where paragraph 1 of Part II of the Schedule applies, any period required by paragraph 2 of that Part to be deducted;

(*c*) the length of his effective service; or

(*d*) 10 years.

(2) For the purposes of this Part an eligible teacher's effective service comprises—

(*a*) any period which he is entitled to count as reckonable service; and

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(**a**) As amended by Sections 14 to 25 of the Industrial Relations (Northern Ireland) Order 1976 (S.I. 1976 No. 1043 (N.I. 16))

(**b**) As amended by paragraph 39 of Part II of Schedule 5 of the said 1976 Order

(*b*) if his former employment was not pensionable employment, any period which he would have been entitled so to count if it had been.

(3) For the purposes of this regulation the deciding authority for any eligible teacher who, immediately before the material date, was employed at a school falling within any employment category mentioned in column (1) of the Table in Part I of the Schedule shall be the authority specified opposite thereto in column (2).

Compensation payable to credited teacher

7.—(1) A credited teacher is entitled to lump sum compensation and to annual compensation.

(2) Subject to regulations 12 and 13, the amount of the lump sum compensation is A − B where—

A is the retirement lump sum to which he would be entitled on the hypothesis specified in paragraph (4), and

B is the assumed retirement lump sum.

(3) Subject to paragraph (6) and to regulations 12 and 14 to 16, the rate of annual compensation is C − D, where—

C is the annual rate of the retirement pension to which he would be entitled on the hypothesis specified in paragraph (4), and

D is the annual rate of the assumed retirement pension.

(4) The hypothesis referred to in paragraphs (2) and (3) is that—

(*a*) all the teacher's effective service counts as reckonable service; and

(*b*) the credited period counts as reckonable service after 30 September 1956.

(5) The assumed retirement lump sum and the assumed retirement pension in the case of any teacher are—

(*a*) where all his effective service counts as reckonable service, those lump sums and annual allowances to which he is entitled under the Superannuation Regulations; and

(*b*) in any other case, those lump sums and annual allowances to which he would have been so entitled if all his effective service had counted as reckonable service.

(6) Where in the case of any teacher—

(*a*) the material date is a date later than 10 April 1988;

(*b*) an occupational pension is being paid in respect of service before the material date;

(*c*) the aggregate of his effective service, any period in respect of which he is entitled to the occupational pension, and the credited period would exceed 40 years; and

(*d*) the aggregate of the annual rates for the time being of the occupational pension and of the annual compensation would exceed the relevant amount;

the rate of the annual compensation is to be reduced so that the relevant amount is not exceeded.

(7) For the purposes of paragraph (6)—

(*a*) the annual rates at any time of the annual compensation and of any other official pension within the meaning of the 1971 Act are their annual rates as increased under that Act; and

(*b*) the annual rate at any time of an occupational pension which is not such an official pension is its annual rate as increased under any contract, scheme or other arrangements.

(8) The relevant amount mentioned in paragraph (6) is E + F, where—

E is the amount specified in paragraph (9), and

F is any amount by which E would have been increased if it had been the annual rate of an official pension within the meaning of the 1971 Act beginning, and first qualifying for increases under that Act, on the day after the material date.

(9) The amount of E is—

$$\frac{G}{80} \times (40 - H)$$

where—

G is average salary of the teacher concerned, and

H is the length in years and days of his effective service.

(10) For the purposes of this regulation an occupational pension is a pension by way of periodical payments, other than an annual allowance under the Superannuation Regulations, which is an occupational pension within the meaning of Article 2(1) of the Social Security Pensions (Northern Ireland) Order 1975(**a**).

Allocation of part of annual compensation

8.—(1) This regulation applies to a credited teacher who—

(*a*) has under regulation 69 of the Superannuation Regulations(**b**) by declaration allocated the largest permissible part of his annual allowance; and

(*b*) has, within one month after being given notification under regulation 19 of the rate of his annual compensation, given written notice to the compensating authority that he wishes this regulation to apply to him.

(2) A credited teacher to whom this regulation applies may, by delivering a declaration to the appropriate compensating authority, allocate part of his annual compensation to the provision of an alternative benefit of either of the kinds described in regulation 69(1) of the Superannuation Regulations.

(**a**) S.I. 1975 No. 1503 (N.I. 15)
(**b**) Regulation 69 was amended by S.R. 1978 No. 147, S.R. 1980 No. 305 and S.R. 1987 No. 76

(3) The ratio of the part allocated to the rate of the annual compensation must not be higher than the ratio of the part of the annual allowance that was allocated to that allowance.

(4) For the purpose of paragraph (3) any reduction under Part IV of the annual compensation is to be disregarded.

(5) Regulation 69(3) to (8) of and Schedule 5(**a**) to the Superannuation Regulations shall apply, with any necessary modfications, in relation to a declaration under paragraph (2) as may apply to a declaration making allocations under that regulation by persons to whom retirement benefits become payable by virtue of regulation 48A(**b**) of those Regulations (redundancy, etc).

(6) The modifications referred to in paragraph (5) include the substitution—

(*a*) of references to annual compensation for references to an annual allowance;

(*b*) of references to the compensating authority for references to the Department; and

(*c*) of a reference to a credited teacher for the reference in regulation 69(8)(*a*) of the Superannuation Regulations to a teacher.

Short-term compensation on death

9.—(1) This regulation applies where a credited teacher dies and a short-term pension—

(*a*) becomes payable under regulation 59 of the Superannuation Regulations(**c**); or

(*b*) would have become so payable but for an election under regulation 12 of the Miscellaneous Provisions Regulations;

and in this regulation such a teacher shall be referred to as "the deceased".

(2) Subject to regulation 11 (duration), where this regulation applies short-term compensation is to be paid to, or as the case may be for the benefit of, the person or persons who are or would have been entitled to payment of the short-term pension as mentioned in paragraph (1).

(3) Subject to paragraph (5) and to regulation 14 (periodic payments), the rate of the short-term compensation payable under paragraph (2) is the rate at which the deceased's annual compensation would have been payable immediately before his death if any reduction under regulation 13, 15 or 16(4) had been left out of account.

(4) If the deceased died in new employment which was pensionable employment, he is for the purposes of paragraph (3) to be taken to have ceased to be in that employment immediately before his death.

(**a**) Regulation 69 and Schedule 5 were amended by S.R. 1978 No. 147, S.R. 1980 No. 305, S.R. 1987 No. 76 and S.R. 1988 No. 64

(**b**) Regulation 48A was added by S.R. 1978 No. 147 and amended by S.R. 1978 No. 351 and S.R. 1981 No. 151

(**c**) Regulation 59 was added by S.R. 1988 No. 363 and replaced Regulation 58 which was amended by S.R. 1980 No. 305 and S.R. 1981 No. 76

(5) If the rate calculated in accordance with paragraph (3) is less than that of the long-term compensation to which there is a prospective entitlement under regulation 10, the rate of the short-term compensation payable under paragraph (2) is the same as that of the long-term compensation.

Long-term compensation on death

10.—(1) This regulation applies where a credited teacher dies and one or more long-term pensions—

(*a*) become payable under regulation 61(**a**) of the Superannuation Regulations; or

(*b*) would have become so payable but for an election under regulation 12 of the Miscellaneous Provisions Regulations;

and in this regulation such a teacher shall be referred to as "the deceased".

(2) Subject to regulation 11 (duration), where this regulation applies long-term compensation is to be paid to, or as the case may be for the benefit of, every person who became or would have become entitled to payment of a long-term pension as mentioned in paragraph (1).

(3) Subject to regulation 14, the rate of the long-term compensation payable under paragraph (2) to a person who is not a child ("adult compensation") is one half of the notional annual compensation rate.

(4) Subject to regulation 14, the rate of the long-term compensation payable under paragraph (2) to or for the benefit of a child or children ("children's compensation") is the appropriate fraction of the notional annual compensation rate.

(5) While adult compensation is payable, then for the purposes of paragraph (4) the appropriate fraction in any case is—

(*a*) while children's compensation is payable to or for the benefit of two or more children, one half; and

(*b*) while it is payable to or for the benefit of one child, one quarter.

(6) If adult compensation did not become payable, or has ceased to be payable, then for the purposes of paragraph (4) the appropriate fraction in any case is—

(*a*) while children's compensation is payable to or for the benefit of two or more children, two thirds; and

(*b*) while it is payable to or for the benefit of one child, one third.

(7) Subject to paragraph (8), for the purposes of paragraphs (3) and (4) the notional annual compensation rate in any case is the rate at which the deceased's annual compensation would have been payable immediately before his death if there had been left out of account any allocation under regulation 8 and any reduction under regulation 12(4)(*b*), 13, 14, 15(3) or (4).

(**a**) Regulation 61 was added by S.R. 1988 No. 363 and replaced Regulation 59 which was amended by S.R. 1978 No. 351 and S.R. 1980 No. 305

(8) If the deceased died in new employment which was pensionable employment, he is for the purposes of paragraph (7) to be taken to have ceased to be in that employment immediately before his death.

Duration of compensation on death

11.—(1) Subject to paragraph (4), a person's short-term compensation under regulation 9 is payable from the day after that of the death of the credited teacher concerned and ceases to be payable—

(*a*) after two months if he is the only child to or for whose benefit it was payable;

(*b*) after three months if he is not a child;

(*c*) after four months if he is one of two or more children to or for whose benefit it was payable,

or on his death if earlier.

(2) Subject to paragraphs (3) and (4), a person's long-term compensation under regulation 10 is payable—

(*a*) from the day on which his short-term compensation under regulation 9 ceases to be payable; or

(*b*) if no such short-term compensation was payable, from the day after that of the death of the credited teacher concerned,

and is payable for life.

(3) Unless the compensating authority determines otherwise in the particular case, adult compensation payable in accordance with regulation 10(3) is not payable during or after any marriage or period of cohabitation outside marriage.

(4) Short-term compensation under regulation 9 or long-term compensation under regulation 10 payable to or for the benefit of a child ceases to be payable when he ceases to be a child.

PART IV

ADJUSTMENTS

Redundancy payments

12.—(1) This regulation applies to a credited teacher—

(*a*) whose credited period exceeds 6 2/3 years; and

(*b*) who has received, or is entitled to receive, a redundancy payment in respect of the cessation of his former employment.

(2) If lump sum compensation payable to a teacher to whom this regulation applies would in his case—

(*a*) exceed the relevant amount, it is to be reduced by that amount;

(*b*) equal the relevant amount, it is not to be paid; or

(*c*) be less than the relevant amount—

(i) it is not to be paid, and

(ii) the rate of his annual compensation is to be reduced in accordance with paragraph (4).

(3) For the purposes of this regulation the relevant amount in any case is—

$$\left(\frac{3 \times A}{10} \times B\right) - C$$

where—

A is the amount of the redundancy payment the teacher is entitled to receive,

B is the length of time, expressed in years and any fraction of a year, by which his credited period exceeds 6 2/3 years, and

C is any amount by which the redundancy payment is reduced under the Contracts of Employment and Redundancy Payments (Pensions) Regulations (Northern Ireland) 1965(**a**).

(4) The reduction mentioned in paragraph (2)(*c*)(ii) is to be calculated from the Table below.

TABLE

Age last birthday of the credited teacher	Amount of reduction per £100 of difference between lump sum compensation and relevant amount	
	Men	Women
50	6.26	5.43
51	6.36	5.48
52	6.47	5.55
53	6.61	5.64
54	6.77	5.75
55	6.96	5.87
56	7.17	6.01
57	7.40	6.16
58	7.64	6.32
59	7.89	6.49
60	8.15	6.67
61	8.43	6.87
62	8.73	7.08
63	9.05	7.32
64	9.39	7.58

(**a**) S.R. & O 1965 No. 246

Termination payments

13.—(1) This regulation applies to a credited teacher who receives a termination payment.

(2) For the purposes of paragraph (1) a termination payment is the aggregate of any lump sum payments made to him by his former employer which—

(*a*) are made in consequence of, or as compensation for, the loss of his former employment;

(*b*) are made in pursuance of any contract or arrangement or any provision contained in, or made under, any statutory provision, whenever made; and

(*c*) are not made by way of compensation under regulation 7 or by way of an excepted payment.

(3) The excepted payments mentioned in paragraph (2)(*c*), in the case of any teacher to whom this regulation applies, are—

(*a*) a redundancy payment in respect of the cessation of his former employment, disregarding any reduction under the Contracts of Employment and Redundancy Payments (Pensions) Regulations (Northern Ireland) 1965(**a**); and

(*b*) so much of any payment in lieu of notice of termination of that employment as does not exceed the remuneration he would, but for its termination, have received for the three months following the material date; and

(*c*) compensation paid under regulation 5.

(4) If lump sum compensation payable to a teacher to whom this regulation applies would, in his case,—

(*a*) exceed the termination payment, it is to be reduced by the amount of that payment;

(*b*) equal the termination payment, it is not be be paid; and

(*c*) be less than the termination payment—

(i) it is not to be paid, and

(ii) his annual compensation is to be reduced by the difference.

(5) If in the case of any teacher to whom this regulation applies—

(*a*) no lump sum compensation is payable by reason of regulation 12(3) or (4); or

(*b*) lump sum compensation was paid before the termination payment became payable,

his annual compensation is to be reduced by the amount of the termination payment.

(6) Reductions of annual compensation under paragraphs (4)(*c*)(ii) and (5) are reductions of the total amount payable, and accordingly payment is to be suspended until the full reduction has been achieved.

(**a**) S.R. & O 1965 No. 246

Periodic payments

14.—(1) This regulation applies where—

(*a*) relevant periodic payments are payable to a credited teacher or to a person to whom compensation is payable under regulation 9 or 10; and

(*b*) the material date in the case of that teacher is a date later than 11 April 1988.

(2) The relevant periodic payments mentioned in paragraph (1)(*a*) are payments made by the credited teacher's former employer which—

(*a*) constitute neither a lump sum nor a return of contributions under the Superannuation Regulations;

(*b*) are made in consequence of, or as compensation for, the loss of his former employment;

(*c*) are made in pursuance of any contract or arrangement or any provision contained in, or made under, any statutory provision, whenever made; and

(*d*) are not made by way of compensation under regulation 7 or by way of an excepted payment.

(3) If in a case where this regulation applies the relevant periodic payments in respect of any period are—

(*a*) equal to or exceed the annual or other compensation that would be payable in respect of that period, the compensation is not to be paid; or

(*b*) less than the compensation, the compensation is to be reduced by the amount of those payments.

New employment

15.—(1) In this regulation—

"annual compensation" means such compensation, as increased under the said Act of 1971 and disregarding any reduction therein otherwise than in pursuance of regulation 16;

"pension quarter" has the meaning assigned thereto by regulation 70(5) of the Superannuation Regulations;

"previous rate" means the salary rate mentioned in the definition of "previous salary" in the said regulation 70(5)(**a**) adjusted as therein provided, in particular, by reference to the Act of 1971;

"re-employment rate" means the salary rate mentioned in the definition of "re-employment salary" in the said regulation 70(5).

(2) This regulation shall apply to a credited teacher who is in such employment as is mentioned in regulation 70(1) of the Superannuation Regulations for so long as he remains in that employment (hereinafter referred to as "new employment").

(**a**) The definition of "previous salary" in Regulation 70(5) was amended by S.R. 1987 No. 315

(3) Where the new employment of a teacher to whom this regulation applies is employment in reckonable service, part-time teaching service or comparable Northern Ireland service the teacher's annual compensation—

(*a*) shall be suspended for any period for which his annual allowance is either suspended or reduced under regulation 70(3) of the Superannuation Regulations; and

(*b*) shall be reduced for any other period for which the aggregate of—

(i) his annual compensation,

(ii) his annual allowance, and

(iii) his salary at the re-employment rate,

would exceed his salary at the previous rate, and the amount of the reduction shall equal that excess.

(4) Where the new employment of a teacher to whom this regulation applies is not such as is mentioned in paragraph (3), the teacher's annual compensation—

(*a*) shall be suspended for any pension quarter for which his annual allowance is either suspended or reduced under regulation 70(4) of the Superannuation Regulations, and

(*b*) shall be reduced for any other pension quarter for which the aggregate of—

(i) his annual compensation,

(ii) his annual allowance, and

(iii) his remuneration in his new employment,

would exceed his salary at the previous rate, and the amount of the reduction shall equal that excess so, however, that for the purposes hereof the increase in his annual compensation or allowance, or the notional increase in his salary at the previous rate, applicable under the Act of 1971 over the whole of the pension quarter shall be taken to be that calculated at the rate so applicable on the first day of that quarter.

(5) Where the new employment of a teacher to whom this regulation applies comprises separate employments at least one of which is such as is mentioned in paragraph (3), any of those employments which are not such as are so mentioned shall be disregarded for the purposes of this regulation.

(6) Where a teacher to whom this regulation applies has two or more entitlements to annual compensation—

(*a*) the reference in paragraph (3)(*b*) or (4)(*b*) to his annual compensation shall be taken as a reference to his total annual compensation; but

(*b*) each separate amount of such compensation shall be reduced by only that proportion of the amount determined in accordance with the paragraph in question which that separate amount bears to the teacher's total annual compensation.

Cessation of new employment

16.—(1) In this regulation "annual compensation" means annual compensation at the rate payable to a teacher to whom this regulation applies by virtue of these regulations on the day after cessation of his new employment in reckonable service, but disregarding any temporary reduction in that rate required by regulation 13(4) or (5), by regulation 14(3) or (4).

(2) This regulation applies to a credited teacher who has been, but has ceased to be, in new employment which was employment in reckonable service.

(3) The annual compensation of a credited teacher to whom this regulation applies shall be reduced in the manner described in paragraph (4) if, on cessation of any such period of new employment as is mentioned in paragraph (2), the aggregate of—

(*a*) his total reckonable service up to that date (or up to the date on which he attained 65 years of age if that is earlier); and

(*b*) any additional period of service with which he is credited under regulation 6 (reduced, where he has had a previous period of new employment in reckonable service and his annual compensation has, pursuant to this regulation, been reduced in consequence thereof, by the period "P" by reference to which, pursuant to paragraphs (4), (5) (6) and (7), that reduction was then calculated); and

(*c*) any additional period of service, or period of increased service, credited to him for a purpose specified in paragraph 1 of Part II of the Schedule and not already taken into account under subparagraph (*b*) reduced to the extent provided for in paragraph 2 of Part II of the Schedule,

exceeds the total period of reckonable service which he would have been entitled to count for the purpose of calculating any annual allowance payable to him under the Superannuation Regulations if he had continued to hold his former employment until he had attained the age of 65 years.

(4) The annual compensation of a credited teacher to whom this regulation applies shall be reduced by an amount calculated at the annual rate which is $1/80 \times P \times S$ where P and S have the meanings assigned to them by paragraph (7).

(5) Subject to paragraph (6) the annual compensation of a credited teacher to whom this regulation applies shall be further reduced by a deduction therefrom which is three times the amount of the annual rate of the reduction pursuant to paragraph (4).

(6) The deduction mentioned in paragraph (5) shall be made from—

(*a*) the instalments of the annual compensation of the teacher concerned as may accrue, so that no instalment shall be paid until the total deduction has been made; or

(*b*) if and to the extent that the Department so decides, from any additional allowance due to the teacher under regulation 56(1)(*b*) of the Superannuation Regulations.

(7) For the purposes of paragraph (4) in the case of any teacher to whom this regulation applies—

"P" is the shortest of the following periods (expressed in years and a fraction of a year), namely—

(*a*) the additional period of service with which the teacher is credited under regulation 6, (reduced, where he has had a previous period of new employment in reckonable service, to the extent required by paragraph (3)(*b*));

(*b*) the period of reckonable service he is entitled to count by virtue of his period of new employment in reckonable service (excluding any part of that period which falls after he has attained the age of 65); and

(*c*) the excess of the aggregate period first mentioned in paragraph (3) over the period last so mentioned; and

"S" is whichever is the smaller of—

(*a*) the teacher's average salary at the material date, and

(*b*) the amount determined by the formula $X - \frac{(X \times Y)}{Y + £100}$

where—

"X" is the teacher's average salary on cessation of his period of new employment; and

"Y" is the aggregate amount of the increases payable under the Act of 1971 in respect of an official pension of £100 a year which began on the day following the material date during the period between that date and the day following the cessation of the period of new employment ("official pension" and "began" being construed in accordance with the 1971 Act).

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Liability for compensation

17.—(1) The compensation to which a person is entitled under Parts III and IV of these Regulations shall be paid by the compensating authority.

(2) Subject to paragraph (3) for the purposes of those regulations the compensating authority in relation to any teacher who, immediately before the material date, was employed at a school falling within any employment category mentioned in column (1) of the Table in Part I of the Schedule shall be the authority specified opposite thereto in column (3).

(3) Where, in any case,—

(*a*) the teacher's former employment fell within category A or C; and

(*b*) in consequence of any amalgamation, merger or other arrangement the school becomes part of another school (the "successor establishment") and ceases to have a separate Board of Governors,

the compensating authority of the teachers employed in the successor establishment (as determined in accordance with paragraph (2)) shall, for the purposes of these regulations be the compensating authority in relation to the teacher concerned.

Arrangements for payment

18. A compensating authority may—

(*a*) itself pay any compensation for which it is liable under these regulations, or

(*b*) arrange for the compensation to be paid by any suitable person and for its reimbursement by the authority.

Notification

19.—(1) As soon as is reasonably practicable after—

(*a*) a teacher has been credited with a period of service under regulation 6;

(*b*) a credited teacher has died; or

(*c*) any adjustment to his compensation has been made under Part IV,

the Department, on behalf of the compensating authority, shall give a written notification to every person to whom compensation thereby became payable or whose compensation is thereby affected, as the case may be.

(2) The notification referred to in paragraph (1) shall state—

(*a*) where paragraph (1)(*a*) or (*b*) applies, what compensation is payable to the teacher concerned and how it has been calculated; and

(*b*) where paragraph (1)(*c*) applies, what adjustment has been made in the compensation in question and how it has been calculated.

Information

20.—(1) A credited teacher shall, within one month after entering or leaving a new employment, notify the Department in writing that he has done so.

(2) A person to whom compensation is payable shall provide the compensating authority who is liable for it with such information, and produce such documents, as may reasonably be required for the purposes of these Regulations.

Payment of compensation

21.—(1) Compensation, other than lump sum compensation, shall be paid in instalments in arrears—

(*a*) at intervals of one month, or

(*b*) at such longer intervals as may be agreed between the compensating authority who is liable for it and the recipient.

(2) Where compensation described in paragraph (1) ceases to be payable before the next date on which an instalment thereof would be due, a

proportionate payment is to be made for the period ending on the date of cessation.

(3) For the purposes of paragraph (2) a proportionate payment is a payment of—

$$\left(\frac{A}{12}\times B\right)+\left(\frac{A}{12}\times\frac{C}{D}\right)$$

where

A is the annual rate of the compensation,
B is the number of complete months, if any, in the period,
C is the number of days remaining in the period after deducting B, and
D is the number of days in the month in which the period ended.

(4) If a person entitled to payment of compensation has not attained the age of 18, or is incapable by reason of infirmity of mind or body of managing his affairs, the compensating authority liable for the compensation may—

(*a*) pay it to any person having the care of the person entitled, or

(*b*) itself apply it for the benefit of the person entitled or his dependants.

Compensation not assignable

22.—(1) Any assignment of or charge or agreement to assign or charge any compensation or any payment for redundancy under Part II is void.

(2) On the bankruptcy of a person entitled to compensation or a payment for redundancy under Part II no part of the compensation or payment passes to any trustee or other person acting on behalf of the creditors; but nothing in this regulation shall affect the powers of the court under Section 51 of the Bankruptcy (Ireland) Amendment Act 1872(**a**) (power to order the payment of the whole or part of certain sums to the official assignee or trustee on bankruptcy).

Revocation and transitional provisions

23.—(1) The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1988(**b**) are revoked.

(2) Part III of the Schedule has effect with respect to transitional matters in connection with the coming into force of these regulations.

(**a**) 1872 c. 58 (35 and 36 Vict)
(**b**) S.R. 1988 No. 72

SCHEDULE

Regulations 6, and 23

PART I

DECIDING AND COMPENSATING AUTHORITIES

TABLE

(1) Employment category	(2) Deciding authority	(3) Compensating authority
A	the Board of Governors	the appropriate board
B	in the case of— controlled schools and institutions of further education—the appropriate board Catholic maintained schools—the Council	the appropriate board
C	in the case of— voluntary grammar schools, grant maintained integrated schools } the Board of Governors	the Department
	voluntary primary schools which are not maintained — the Manager	the Department
D	Governing body	the appropriate board
E	in the case of— controlled schools—the appropriate board Catholic maintained schools—the Council voluntary maintained schools—the Board of Governors	the Department
F	in the case of— controlled schools and institutions of further education—the appropriate board Catholic maintained schools—the Council	the appropriate board
G	the employing authority	the Department

PART II

PREVIOUS COMPENSATION

1.—(1) This paragraph applies where, before the cessation of his former employment, a credited teacher has been credited with a period of additional service, or has had his period of service increased, for the purpose of calculating—

(*a*) retirement compensation under regulations made under section 137 of the Local Government (Northern Ireland) Act 1972(**a**) (compensating for loss of office) on account of loss of employment; or

(*b*) benefit under regulations made under Section 3 of that Act (early retirement in lieu of compensation for loss of office); or

(*c*) compensation under any scheme made under Article 3 of the Superannuation (Northern Ireland) Order 1972(**b**) (civil servants, etc) on account of his retirement in the public interest, or for loss of office; or

(**a**) 1972 c. 9 (N.I.)
(**b**) S.I. 1972 No. 1073 (N.I. 10)

(*d*) compensation under these Regulations or any other regulations made under Article 19 of that Order (loss of office, etc) on account of the termination of his employment by reason of redundancy or in the interests of the efficient discharge of his employer's functions; or

(*e*) compensation under any contract or arrangement made before 11 April 1988 in the expectation that regulations would be made under that section providing for compensation for such termination of employment.

(2) Any reference in sub-paragraph (1) to instruments made under a specified enactment includes a reference to any instrument made under any enactment to the like effect, whenever enacted.

2. In the case of any eligible teacher the period to be deducted, where paragraph 1 applies, from the first mentioned in regulation 6(1)(*b*) is A – B – C, where—

A is the period with which he has been credited, or by which his service has been increased, as mentioned in paragraph 1,

B is any period by which A has been reduced in consequence of the cessation of subsequent employment, and

C is the aggregate of any periods falling between the cessation of employment that give rise to A and the material date during which he was neither in pensionable employment nor in employment which would have been pensionable employment but for an election under regulation 12 of the Miscellaneous Provisions Regulations.

PART III

TRANSITIONAL PROVISIONS

1. Where in any case a period of time specified in, or applying by virtue of, a provision of the 1988 Regulations is current at the commencement of these Regulations, these Regulations have effect as if the corresponding provision of these Regulations had been in force when that period began to run.

2. Where, in the case of any teacher,—

(*a*) the material date is a date earlier than the commencement of these Regulations, and

(*b*) immediately before the material date an election made, or failing to be treated as having been made, under regulation 12 of the Miscellaneous Provisions Regulations (election not to be pensionable) had effect,

regulation 6(1) (additional service credit) has effect with the substitution for the words "the material date", where first occurring, of the words "1 April 1991"

Sealed with the Official Seal of the Department of Education on 28 March 1991.

(L.S.)

S. Quinn
Assistant Secretary

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 28 March 1991.

(L.S.)

F. P. Smyth
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1988 ("the 1988 Regulations"). In many respects their effect is the same as that of the 1988 Regulations. The following are the main changes.

The premature retirement provisions of the 1988 Regulations applied only where the employment terminated was pensionable under regulations made under Article 11 of the Superannuation (Northern Ireland) Order 1972 (superannuation of teachers). Since 6th April 1988 the Teachers' Superannuation Regulations (as amended) have, in compliance with Article 17 of the Social Security (Northern Ireland) Order 1986, permitted employees who would otherwise have been pensionable to elect not to be so. The premature retirement provisions of these Regulations apply in relation to former employees who had so elected as well as to ones who were pensionable under the Teachers' Superannuation Scheme (regulations 3(2), (3), 4(2), (3), 9(1)(*b*), 10(1)(*b*).

Premature retirement compensation under the 1988 Regulations fell to be calculated in all cases by reference to the superannuation benefits to which the former employee was entitled. These Regulations provide for the calculation to be made by reference to notional benefits and wholly notional reckonable service, where he has elected that his employment as a teacher shall not be reckonable (regulation 7(2)–(5), with regulation 6(2)).

Under the 1988 Regulations the decision whether to award premature retirement compensation fell to be made by the employer and the Department was responsible for paying it. The new financial arrangements for schools and institutions of further education made by the Education Reform (Northern Ireland) Order 1989 are reflected in regulations 6(1) and 17(1) and (2) of these Regulations, with regulation 3(4) and Part I of the Schedule; the deciding and compensating authorities are not in all cases the same.

Regulation 18(1) provides for the compensating authority to make arrangements for the payment of compensation.

1991 Nos. 133, 134

These Orders have been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. Summaries are given in the List of Statutory Rules of a Local Character under the heading ROADS.