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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 37**

**EDUCATION**

**The Teachers' Superannuation (Amendment)  
Regulations (Northern Ireland) 2014**

*Made* - - - - *12th February 2014*

*Coming into operation* *10th March 2014*

The Department of Education makes the following Regulations in exercise of the powers conferred by Articles 11(1)(1), (2), (3), (3A)(2), 14(1) and (2) and paragraphs 1, 3, 4, 5, 6, 8, 11 and 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(3).

In accordance with Article 11(5) of that Order consultation has taken place with representatives of local education authorities and of teachers and with representatives of other persons likely to be affected.

In accordance with Article 11(1) of that Order these Regulations are made with the consent of the Department of Finance and Personnel(4).

**Citation and commencement**

1. These Regulations may be cited as the Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 2014 and shall come into operation on 10 March 2014.

**Amendment of Superannuation Regulations**

2. The Teachers' Superannuation Regulations (Northern Ireland) 1998 (5) are amended in accordance with regulations 3 to 18.

3.—(1) Regulation B1 is amended as provided by paragraph (2).

(2) For paragraph (5) substitute—

“(5) A person who, before 1 February 2013, was employed as a temporary teacher or was in part-time employment while he was entitled to be paid a teachers' pension is not, for so long as he remains in the same employment, in pensionable employment unless;

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(1) As amended by S.I. 1990/1509 (N.I. 13) Article 13(1)

(2) As amended by S.I. 1990/1509 (N.I. 13) Article 6(1)

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

(4) Formerly Department of Finance: see S.I. 1982/338 (N.I. 6) Article 3

(5) S.R. 1998 No. 333, relevant amendments are S.R. 2005 Nos. 181 and 495, S.R. 2006 Nos. 163 and 366, S.R. 2007 No. 137 and S.R. 2010 No. 137

- (a) he makes an election under regulation B5; or
- (b) he is enrolled into the Scheme under arrangements made by the employer under section 3(2) (automatic enrolment) or section 5(2) (automatic re-enrolment) of the Pensions (No.2) Act (Northern Ireland) 2008 in respect of the employment, and no election under regulation B4 has effect.”.

4.—(1) Regulation B3 is amended as provided by paragraph (2).

(2) For paragraph (1)(a) substitute—

“(a) 16 years old or older and under 75; and”.

5. For regulation B4 substitute—

**“B4 Election for employment not to be pensionable**

(1) A person may make an election under this regulation in respect of a particular pensionable employment by giving written notice to the Department.

(2) An election has effect from the first day of the month after the month in which the notice is given.

(3) But—

- (a) if the notice is given within 3 months after the start of employment in a capacity mentioned in Schedule 2, the election has effect from the first day of that employment; and
- (b) if the notice is given within 3 months after the date on which arrangements made by the employer under section 3(2) (automatic enrolment) or section 5(2) (automatic re-enrolment) of the Pensions (No.2) Act (Northern Ireland) 2008 have effect in respect of that employment, the election has effect from that date.

(4) An election ceases to have effect from the earlier of—

- (a) the date on which an election under regulation B5 (election to rejoin pensionable service) has effect; and
- (b) the date on which arrangements made by the employer under section 3(2) (automatic enrolment) or section 5(2) (automatic re-enrolment) of the Pensions (No.2) Act (Northern Ireland) 2008 have effect in respect of the employment.”.

6.—(1) Regulation B5 is amended as provided in paragraphs (2) and (3).

(2) After paragraph (1A) insert—

“(1B) A person to whom regulation B1(5) applies who is in employment which would otherwise have been pensionable employment may at any time, by giving written notice to the Department, make an election under this regulation.”.

(3) In paragraph (3) after “paragraph 1(a)” insert “or (1B)”.

7.—(1) Regulation E3 is amended as provided in paragraph (2).

(2) After paragraph (2) insert—

“(2A) If the person was entitled to be paid a teacher’s pension and has re-entered pensionable employment, any period of 1 year in such employment is an appropriate qualifying period.”.

8.—(1) Regulation E4 is amended as provided in paragraphs (2) to (6).

(2) In paragraph (2) for “Case B, C, D, E or F” there shall be substituted “Case C, D, E or F”.

- (3) In paragraph (4) for sub-paragraph (b) substitute—
- “(b) is incapacitated, became so before attaining the normal pension age, and
- (i) immediately before he became incapacitated-
- (aa) was in pensionable employment, or
- (bb) was taking a period of unpaid sick leave, maternity, paternity, parental or adoptive leave (taken with the consent of the person’s employer) or a career break which, in each case, followed on immediately after a period of pensionable employment, or
- (cc) was paying additional contributions under old regulation C6 or regulation C7, or
- (ii) made an application for payment under regulation E33(2) such that it was received by the Department before 6th April 2007, or
- (iii) (where neither paragraph (i) nor (ii) applies) his ability to carry out any work is impaired by more than 90% and is likely permanently to be so.; and”.
- (4) In paragraph (5) for sub-paragraph (c) substitute—
- “(c) has become incapacitated before attaining that age; and”.
- (5) In paragraph 7 for sub-paragraph (c) substitute—
- “(c) is not within Case C, and”.
- (6) In paragraph (9) for “Cases A, B and E” there shall be substituted “Cases A and E”.
- 9.—**(1) Regulation E4A is amended as provided by paragraphs (2) to (5).
- (2) In paragraph (2)(b) for “25%” there shall be substituted “20%”.
- (3) In paragraph (3)(d) for “25%” there shall be substituted “20%”.
- (4) In paragraph (6) for “75%” there shall be substituted “80%”.
- (5) For paragraph (12) substitute—
- “(12) In calculating the factor by which additional benefits referred to in paragraph (11) are to be multiplied and divided pursuant to regulation E5A(3) and (4)-
- (a) in relation to an election made on or before 22nd June 2010 RPI1 is the retail prices index for the second month before the month in which the change in pensionable employment occurred,
- (b) in relation to an election made after 22nd June 2010 CPI1 is the consumer prices index for the second month before the month in which the change in pensionable employment occurred, and
- (c) the definition of X has effect as if for “the date on which the person became entitled to payment of retirement benefits” there were substituted “the date of the change in pensionable employment”.”.
- 10.—**(1) Regulation E5A is amended as provided in paragraph (2).
- (2) For paragraph (3) substitute—
- “(3) The factor in this paragraph is—
- (a) in relation to an election made on or before 22nd June 2010, RPI1/RPI2 where—
- (i) RPI1 is the retail prices index for the penultimate month before the month which includes the day before the person becomes entitled to the part of his retirement pension referred to in this regulation, and

- (ii) RPI2 is the retail prices index for the month which includes the start date, as defined in paragraph 1 of Schedule 2A, for the election in question, and
- (b) in relation to an election made after 22nd June 2010, CPI1/CPI2 where—
  - (i) CPI1 is the consumer prices index for the penultimate month before the month which includes the day before the person becomes entitled to the part of his retirement pension referred to in this regulation, and
  - (ii) CPI2 is the consumer prices index for the month which includes the start date, as defined in paragraph 1 of Schedule 2A, for the election in question.”.

**11.**—(1) Regulation E15 is amended as provided by paragraph (2).

(2) For paragraph (1) substitute—

“(1) This regulation applies to a person who became entitled to payment of a teacher’s pension by virtue of regulation E4(4) or (5) (“the first pension”) and was subsequently in pensionable employment (“the further employment”) and has ceased to be in the further employment.”.

**12.** After regulation E15 there shall be inserted the following regulation—

*“E15A Retirement benefits on cessation of further employment where regulation E15 does not apply”*

“(1) This regulation applies to a person, other than a person to whom regulation E15 applies, who—

- (a) was entitled to be paid a teacher’s pension,
- (b) has, after becoming entitled to a teacher’s pension, re-entered pensionable employment (“the further employment”), and
- (c) ceases to be in the further employment.

(2) Such a person becomes entitled to payment of retirement benefits in accordance with paragraphs (3) to (7) by reference to his reckonable service in the further employment.

(3) Where regulation E4(2) or (6) applies, subject to paragraph (7), a person’s entitlement to retirement benefits takes effect—

- (a) where, at the time of the application for benefits under regulation E33 the person was in pensionable or excluded employment, as from the day after the end of the employment, and
- (b) in any other case on a date determined by the person making the application for benefits under regulation E33 being a date no earlier than 6 weeks after the date of such application.

(4) Where regulation E4(4) or E4(5) applies, subject to paragraph (7), a person’s entitlement to retirement benefits takes effect in accordance with regulation E4(10).

(5) Where regulation E4(7) applies, subject to paragraph (7), a person’s entitlement to retirement benefits takes effect in accordance with regulation E4(11).

(6) Where regulation E4(7AC) applies, subject to paragraph (7), a person’s entitlement to retirement benefits takes effect in accordance with regulation E4(11A).

(7) Where a person ceases to be in further employment such as is mentioned in paragraph (1)(b) (“the earlier further employment”) and he subsequently enters further employment without making an application for benefits under regulation E33 in respect of the earlier further employment, he cannot make such an application during any period of subsequent further employment.”.

**13.—**(1) Regulation E22 is amended as provided in paragraph (2).

(2) After paragraph (1) insert—

“(1A) Where a person was entitled to be paid a teacher’s pension and, after becoming entitled to a teacher’s pension, re-entered pensionable employment (“the further employment”), in calculating the benefits payable under regulations E24 to E30, the further employment shall not be taken into account but those regulations shall apply separately to the further employment as they apply to any other pensionable employment.”.

**14.—**(1) Regulation E26 is amended as provided in paragraph (2).

(2) After paragraph (1) insert—

“(1A) Where the deceased was entitled to be paid a teacher’s pension and, after becoming entitled to a teacher’s pension, re-entered pensionable employment, for the purpose of calculating benefits in accordance with regulation E22(1A), paragraph (1)(b)(ii) has effect as if “2 years” were replaced by “1 year”.”.

**15.—**(1) Regulation G4 is amended as provided by paragraph (2).

(2) In sub-paragraph (1A)(a) for “2001” substitute “2012”.

**16.—**(1) Regulation G5 is amended as provided by paragraph (2).

(2) For paragraphs (1) to (4) substitute—

“(1) “Relevant period” is to be construed in accordance with regulation G4(3).

(2) The employer of a person in pensionable employment is, during every relevant period, to pay contributions of 13.6% of the person’s contributable salary for the time being.”.

**17.** In Schedule 1—

(1) Insert the following definition at the appropriate place in alphabetical order—

““Consumer prices index” The index of consumer prices published by the Office for National Statistics.”.

(2) for the definition of “Entitled” there shall be substituted the following definition—

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““Entitled”	Save where expressly provided otherwise in these Regulations any reference to a person entitled to payment of retirement benefits shall be construed:
(a)	as a reference to a person who has made an application for payment of those benefits under regulation E33 where the person—
(i)	has not yet attained the normal pension age, or
(ii)	regardless of his age has ceased to be in further employment in circumstances where regulation E15A applies, and
(b)	in all other cases, as including a reference to a person who has not applied for payment of such benefits.”

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**18.** In Schedule 2A—

(1) In paragraph 18 for sub-paragraph (b) substitute—

“(b) where the election is made between 1 April 2008 and 22 June 2010, A x RPI1/RPI2 rounded to the nearest £100 where—

(i) A is the maximum amount of increased retirement pension for the financial year before the financial year in which the election is made (whether determined under this paragraph or under paragraph 19),

- (ii) RPI1 is the retail prices index for the month of February in the financial year before the financial year in which the election is made, and
  - (iii) RPI2 is the retail prices index for the month of February in the second financial year before the financial year in which the election is made (or the index for April 2007 where the financial year before the financial year in which the election is made is the period starting on 1st April 2007 and ending on 31st March 2008).
- (c) where the election is made after 22 June 2010,  $A \times \text{CPI1/CPI2}$  rounded to the nearest £100 where—
- (i) A is the maximum amount of increased retirement pension for the financial year before the financial year in which the election is made (whether determined under this paragraph or under paragraph 19),
  - (ii) CPI1 is the consumer prices index for the month of February in the financial year before the financial year in which the election is made, and
  - (iii) CPI2 is the consumer prices index for the month of February in the second financial year before the financial year in which the election is made.”.
- (2) For paragraph 21 substitute—
- “21. For the purposes of paragraph 20 the factor is—
- (a) in relation to an election made on or before 22nd June 2010,  $\text{RPI1/RPI2}$  where—
    - (i) RPI1 is the retail prices index for the month of February in the financial year before the financial year in which the new election is made, and
    - (ii) RPI2 is the retail prices index for the month of February in the financial year before the financial year in which the start date in relation to the previous election in question election fell (or the index for April 2007, where the start date in relation to that election fell in the financial year starting on 1st April 2007 and ending on the 31st March 2008).
  - (b) in relation to an election made after 22nd June 2010,  $\text{CPI1/CPI2}$ , where—
    - (i) CPI1 is the consumer prices index for the month of February in the financial year before the financial year in which the new election is made, and
    - (ii) CPI2 is the consumer prices index for the month of February in the financial year before the financial year in which the start date in relation to the previous election in question election fell.”.

Sealed with the Official Seal of the Department of Education on 12 February 2014



*La'Verne Montgomery*  
A senior officer of the  
Department of Education

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 12 February 2014



*John McKibbin*  
A senior officer of the  
Department of Finance and Personnel

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Teachers' Superannuation Regulations (Northern Ireland) 1998.

Regulation 3 provides that where a person is entitled to be paid a teacher's pension and takes up further employment within the scope of the regulations the employment will be pensionable unless the teacher elects (under regulation B4) otherwise. However, where a person was in such employment on 31<sup>st</sup> January 2013, the employment is not pensionable unless an election to that effect is made, or he is enrolled into the scheme by the employer under Automatic Enrolment arrangements..

Regulation 4 provides for the reduction of the minimum age for membership of the scheme to 16 years.

Regulation 5 provides for members to make separate elections for each period of pensionable employment, and for automatic enrolment or re-enrolment in the pension scheme in accordance with the Pensions (No.2) Act (Northern Ireland) 2008.

Regulation 7 provides for a qualifying period of 1 year for entitlement to retirement benefits for further employment when the teacher was entitled to be paid a teacher's pension.

Regulation 8 amends regulation E4 to correct drafting errors.

Regulation 9 (1) to (4) reduces the minimum reduction in earnings required to qualify for phased retirement to 20%.

Regulations 9(5), 10 and 18 effect a change to the reference index for uprating various figures from the retail prices index to the consumer prices index.

Regulation 11 amends regulation E15 to apply only to teachers who have previously retired due to incapacity, and who have undertaken further employment after ceasing to be incapacitated

Regulation 12 introduces a new regulation E15A to provide for the entitlement to further retirement benefits of a teacher, other than a teacher who has retired due to incapacity, who ceases to be employed in further employment when the teacher was entitled to be paid a teacher's pension.

Regulation 13 amends regulation E22 so that further employment when the teacher was entitled to be paid a teacher's pension is treated separately from other employment in calculating family benefits.

Regulation 14 amends regulation E26 to provide for a qualifying period of 1 year for entitlement to family benefits for further employment when the teacher was entitled to be paid a teacher's pension.

Regulation 15 amends the date of an Actuarial Review.

Regulation 16 provides that the rate of the employers' contributions is fixed at 13.6% of the employee's salary.

Regulation 17 adds a definition of "consumer prices index" and amends the definition of "Entitled" in Schedule 1.