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STATUTORY INSTRUMENTS

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**2000 No. 665**

**EDUCATION, ENGLAND AND WALES**

**The Teachers' Pensions (Amendment) Regulations 2000**

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| <i>Made</i>                   | - - - -  | <i>8th March 2000</i>  |
| <i>Laid before Parliament</i> |  | <i>9th March 2000</i>  |
| <i>Coming into force</i>      |  |                        |
|                               | <i>Regulations 1, 2, 3, 4, 5,<br/>8(a) and (b), 15, 17, 18, 19,<br/>21, 27(b), 28, 29, 30, 34(b)<br/>and (c), 36</i> | <i>30th March 2000</i> |
|                               | <i>The remaining provisions</i>  | <i>1st April 2000</i>  |

The Secretary of State for Education and Employment, in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972<sup>(1)</sup>, after consulting with representatives of the local education authorities, teachers and other persons likely to be affected in accordance with section 9(5) of that Act, and with the consent of the Treasury<sup>(2)</sup>, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Teachers' Pensions (Amendment) Regulations 2000.

(2) Regulations 1, 2, 3, 4, 5, 8(a) and (b), 15, 17, 18, 19, 21, 27(b), 28, 29, 30, 34(b) and (c), and 36 shall come into force on 30th March 2000.

(3) The remaining provisions of these Regulations shall come into force on 1st April 2000.

(4) In these Regulations “the Principal Regulations” means the Teachers' Pensions Regulations 1997<sup>(3)</sup>.

**Amendment of Principal Regulations**

2. The Principal Regulations shall be amended in accordance with regulations 3 to 36.

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(1) 1972 c. 11; section 9 was amended by sections 4(1), 8(3) and (4) and 11 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) and section 12 was amended by section 10 of that Act.

(2) See S.I. 1981/1670.

(3) S.I. 1997/3001, amended by S.I. 1998/2255 and S.I. 1999/607.

3. In regulation A3(1)(4) at the end of sub-paragraph (b) there shall be added the word “or” and after that sub-paragraph there shall be added the following sub-paragraph–

“(c) is employed by an accepted function provider, within the meaning of regulation B3A(1), in the performance of the functions which it performs on behalf of the local education authority.”.

4. For regulation B1(1)(5) there shall be substituted the following–

“(1) Subject to paragraphs (2) to (5), regulations B3 and B3A and regulations B4 to B7, a person is in pensionable employment while he is in employment–

- (a) (i) in a capacity described in Schedule 2,
- (ii) which satisfies every condition and is not within any exception specified in that Schedule in relation to employment in that capacity, and
- (iii) which is not employment by a function provider, or
- (b) as a teacher in an accepted school, or
- (c) as a teacher employed by an accepted function provider in the performance of the functions which it performs on behalf of the local education authority.”.

5. After regulation B3 there shall be inserted the following regulation–

“**B3A.**—(1) Subject to paragraph (6), a function provider is accepted if the Secretary of State has accepted it for the purposes of this regulation.

(2) A function provider may only be accepted if it has made a written application to the Secretary of State.

(3) A function provider may only be accepted where there is in force a guarantee, indemnity or bond in a form and amount and provided by a person approved by the Secretary of State which provides for payment to the Secretary of State of all liabilities of the function provider under these Regulations or under the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994(6) should the function provider fail to meet them.

(4) No function provider need be accepted, but if it is accepted its acceptance takes effect as from such date as may be agreed between the function provider and the Secretary of State.

(5) A function provider which has been accepted will cease to be so from such date as the Secretary of State may specify in a written notice given to it by him.

(6) Such notice may be given if–

- (a) the guarantee, indemnity or bond referred to in paragraph (3) ceases to be in force,
- (b) in respect of the function provider–
  - (i) a proposal for a voluntary arrangement has been made or approved under Part I of the 1986 Act,
  - (ii) a petition for an administration order has been presented, or an administration order made under Part II of the 1986 Act,
  - (iii) a receiver, manager, or administrative receiver has been appointed under Part III of the 1986 Act,

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(4) Regulation A3 was inserted by [S.I. 1998/2255](#).

(5) Regulation B1 was amended by regulation 4 of [S.I. 1998/2255](#).

(6) [S.I. 1994/2924](#).

(iv) a winding-up petition has been presented, a winding-up order has been made or a resolution for voluntary winding-up has been passed under Part IV or Part V of the 1986 Act, or

(v) notice has been received by it that it may be struck off the register of companies or an application to strike it off has been made under Part XX of the 1985 Act, or

(c) the function provider has—

(i) made a written application to the Secretary of State for it to cease to be accepted,

(ii) failed to pay or remit contributions (whether under these Regulations or under the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994(7)) to the Secretary of State, or

(iii) failed to comply with regulation H3 (records and information) or any other provision of these Regulations relating to pensionable employment.

(7) The function provider shall inform the Secretary of State immediately upon the occurrence of any of the events referred to in paragraph (6)(b).

(8) A function provider which performs functions on behalf of more than one local education authority or on behalf of the same authority under separate contracts may only be accepted by the Secretary of State for the purposes of this regulation in relation to each such authority and contract separately and the foregoing provisions of this regulation shall apply accordingly.”.

6. In regulation B4 at the beginning of paragraph (2) there shall be inserted the words “Subject to regulation B7,”.

7. After regulation B6 there shall be inserted the following regulation—

**“Further employment—election made on or after 1st April 2000**

**B7.—**(1) A person who is entitled to be paid a teacher’s pension, including cases where the annual rate of pension has been reduced to zero in accordance with regulation E14 (abatement of retirement pension during further employment) and is in employment of a kind referred to in regulation B1(1), is in pensionable employment if subject to paragraphs (2) to (7) he has made an election under this regulation on or after 1st April 2000.

(2) An election under this regulation—

(a) may be made at any time by giving written notice to the Secretary of State,

(b) may not be made without the consent of the employer in the case of employment in a capacity described in Part II of Schedule 2 other than employment described in paragraphs 16, 21, 22 or 24, and

(c) has effect as from the first day of the month after that in which notice was given or, provided that the payment of contributions payable under regulations C3B and G8(9) are paid, such earlier date as the employer agrees.

(3) The earlier date referred to in paragraph (2)(c) may not be a date before 1st April 2000 or the date on which the further employment commenced, if after 1st April 2000.

(4) Subject to paragraph (5), a person who is entitled to payment of retirement benefits by virtue of regulation E4(3) or (4) otherwise than in respect of further employment which is pensionable by virtue of this regulation, who ceases to be incapacitated and who is in

employment of a kind referred to in B1(1) shall be in pensionable employment without an election under this regulation, regulation B1 or regulation B6.

(a) (5) any previous election made by the person under regulations B1(2), B1(4), B5(1) or B6(1) in relation to employment of a kind mentioned in those regulations shall continue to have effect in relation to such further employment and any subsequent such further employment, but

(b) if he has not previously made any such election, further employment of a kind mentioned in regulations B1(2), B1(4) or B6(1) shall not be pensionable unless he makes an election under the appropriate regulation.

(6) Subject to paragraph (7) an election under this regulation has effect in relation to any subsequent employment.

(7) When regulation E4(2), (3), (4), (5) or (5A)(8) applies, an election under this regulation shall cease to have effect—

(a) on the day after the end of the person's employment where he is in pensionable or excluded employment at the time of the application for benefits under regulation E33, or

(b) on the date of the application for benefits under regulation E33 where the person is not in employment at the time of the application,

and any subsequent period of further employment is not pensionable unless the person makes a fresh election under this regulation.”.

**8. In regulation C2—**

(a) there shall be inserted at the beginning of paragraph (1) the words “ Subject to paragraph (12)”, and

(b) in paragraph (4) for the words—

“RE is the retail prices index for the month in which the election was made.”

there shall be substituted—

“RE is the retail prices index for the month in which the salary was reduced.”,  
and

(c) after paragraph (11) there shall be inserted the following paragraph—

“(12) Paragraph (1) shall not apply where a person is in pensionable employment by virtue of regulation B7.”.

**9. After regulation C3A(9) there shall be inserted the following regulation—**

**“Contributions where an election under regulation B7 is to take effect from an earlier date**

**C3B.—**(1) This regulation applies where—

(a) a person has elected under regulation B7 that his further employment should be pensionable, and

(b) his employer has agreed under regulation B7(2)(c) that the election should have effect from a date earlier than the first day of the month after that in which the notice was given.

(2) Where this regulation applies the person shall—

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(8) Regulation E4(5A) is added by regulation 17 of these Regulations.

(9) Regulation C3A was inserted by regulation 5 of [S.I. 1998/2255](#).

- (a) pay the contributions calculated in accordance with regulation C3(1) and treated as due on the last day of each month for the period starting with such earlier date and ending immediately before the first day of the month after that in which the notice was given, and
- (b) pay interest on each such contribution at 7% per annum, compounded with monthly rests from the 8th day after the end of the month in which that contribution was due to the date of its payment.”.

10. In regulation C4(1)(a) after “pensionable employment” there shall be inserted the words “otherwise than by virtue of regulation B7”.

11. In regulation C5(1)(a) after “pensionable employment” there shall be inserted the words “otherwise than by virtue of regulation B7”.

12. In regulation C9(1) for sub-paragraph (a) there shall be inserted the following sub-paragraph–

- “(a) before attaining the age of 60 has ceased, otherwise than by virtue of an election under regulation B5, to be in employment which is pensionable otherwise than by virtue of regulation B7.”.

13. In regulation C16(1)(a) after “pensionable employment” there shall be inserted the words “otherwise than by virtue of regulation B7”.

14. In regulation C18 there shall be inserted after paragraph (1) the following paragraph–

“(1A) The employer of a person in pensionable employment by virtue of an election made under regulation B7 who has agreed under regulation B7(2)(c) that the election should have effect from a date earlier than the first day of the month after that in which the notice was given, shall collect the contributions and interest payable under regulation C3B no later than 6 weeks after the date on which such agreement was given; and the remaining paragraphs of this regulation do not apply to the sums collected under this paragraph.”.

15. After regulation E1 there shall be inserted the following regulation–

**“Residual liability for guaranteed minimum pensions and for section 9(2B) rights**

**E1A.—**(1) This regulation applies where–

- (a) a person has exercised his right to a cash equivalent,
- (b) the other occupational pension scheme or personal pension scheme into which he has transferred or is in the course of transferring his cash equivalent is not willing or able to accept the cash equivalent of his guaranteed minimum pension or section 9(2B) rights, and
- (c) he has not transferred the cash equivalent of his guaranteed minimum pension or section 9(2B) rights into a policy described in section 19(4)(a) of the 1993 Act or a separate personal pension scheme.

(2) Where this regulation applies the person is entitled–

- (a) to a pension at a weekly rate equal to his guaranteed minimum from the date on which he attains state pensionable age,
- (b) to a lump sum and a pension in respect of his section 9(2B) rights from the date on which he attains the age of 60,

or to both.”.

16. In regulation E3 after paragraph (2) there shall be inserted the following paragraph–

“(2A) If the person was in pensionable employment by virtue of regulation B7, any period of 1 year in such employment is an appropriate qualifying period.”.

**17.** In regulation E4–

- (a) after paragraph (5) there shall be inserted the following paragraphs–

“(5A) In case E the person–

- (a) has attained the age of 55,
- (b) has ceased on or after 30th March 2000 and before attaining the age of 60 to be in pensionable employment or excluded employment, and
- (c) is not within Case C or Case D,

and the conditions specified in paragraph (5B) are satisfied.

(5B) Those conditions are–

- (a) where the person has a guaranteed minimum pension in respect of employment before 6th April 1997, or an equivalent pension benefit relating to employment undertaken during the period starting on 3rd April 1961 and ending on 5th April 1975 (or both) that the annual rate of the person’s retirement benefits in the opinion of the Government Actuary is equal to or exceeds the equivalent pension benefit or the value of the guaranteed minimum pension (or if both the aggregate), and
- (b) where, at the time of the application for payment of benefits under regulation E33, the person was in pensionable employment (otherwise than by virtue of regulation B7) or excluded employment that–
  - (i) the person’s employer has consented to the application, or
  - (ii) 6 months have elapsed since the date on which the person requested his employer to give consent and such consent has not been given.”.

- (b) after paragraph (9) there shall be inserted the following paragraph–

“(9A) In Case E the entitlement takes effect–

- (a) where, at the time of the application for benefits under regulation E33, the person was in pensionable employment 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.”.

**18.** In regulation E5–

- (a) for paragraph (3) there shall be substituted the following paragraph–

“(3) Subject to paragraphs (4) to (6), where–

- (a) a person who has become entitled to payment of retirement benefits by virtue of regulation E4(5) has ceased to be in pensionable employment or excluded employment on or after 1st September 1997, or
- (b) a person has become entitled to payment of retirement benefits by virtue of regulation E4(5A),

the annual rate of the person’s retirement pension shall be the annual rate of such pension calculated in accordance with paragraphs (1) and (2) and, where appropriate, regulation E7 or E9 (but disregarding the effect of regulation E10) multiplied by the appropriate factor.”,

- (b) in paragraph (4) after the words “does not apply where” there shall be inserted “in the case of a person who falls within paragraph (3)(a)”, and
- (c) at the beginning of paragraph (5) for the word “If” there shall be substituted “Where the person falls within paragraph (3)(a) and”.

**19.** In regulation E6–

- (a) for paragraph (3) there shall be substituted the following paragraph–

“(3) Subject to paragraph (4), where–

- (a) a person who has become entitled to the payment of retirement benefits by virtue of regulation E4(5) has ceased to be in pensionable or excluded employment on or after 1st September 1997, or
- (b) a person has become entitled to payment of retirement benefits by virtue of regulation E4(5A),

the amount of the person’s retirement lump sum shall be the amount calculated in accordance with paragraphs (1) and (2) multiplied by the appropriate factor.”, and

- (b) in paragraph (4) after “does not apply where” there shall be inserted the words “in the case of a person who falls within paragraph (3)(a)”.

**20.** In regulation E8–

- (a) for sub-paragraph (a) of paragraph (1) there shall be substituted the following sub-paragraph–

- “(a) (i) where his pensionable employment terminates before 1st April 2000, he had completed periods of the kinds described in Schedule 8 totalling at least 5 years, excluding any contributions refund period, or
- (ii) where his pensionable employment terminates on or after 1st April 2000, he had completed periods of the kinds described in Schedule 8 totalling at least 2 years, excluding any contributions refund period, and”, and

- (b) in paragraph (3)(b) for the words “his 65th birthday” there shall be substituted–

“his 65th, or, if he is entitled to retirement benefits by virtue of regulation E4(5A) and subsequently becomes entitled to retirement benefits by virtue of regulation E4(4) with reference to his reckonable service in further employment which is pensionable by virtue of an election under regulation B7, his 60th birthday.”.

**21.** In regulation E13 for paragraph (1) there shall be substituted the following paragraph–

“(1) This regulation applies where a person’s entitlement to payment of a teacher’s pension by virtue of regulation E4(4) took effect on or after 1st April 1997 under regulation E4(8) of these Regulations or regulation E4(9) of the 1988 Regulations<sup>(10)</sup> and–

- (a) he takes up employment on or after 30th March 2000 in a capacity described in Schedule 2 or as a teacher in an accepted school or with an accepted function provider, or
- (b) otherwise ceases to be incapacitated.”.

**22.** In regulation E14<sup>(11)</sup>–

- (a) at the beginning of paragraph (1) there shall be inserted the words “ Subject to paragraph (1B)”,
- (b) at the end of paragraph (1) there shall be added the words “in each case being employment of a kind referred to in regulation B1(1) commencing before 1st April 2000.”,
- (c) after paragraph (1) there shall be inserted the following paragraphs–

“(1A) Subject to paragraph (1B), this regulation applies while a person who has become entitled to payment of a teacher’s pension is employed in pensionable employment, comparable British service, or employment–

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<sup>(10)</sup> Regulation E4(9) of the 1988 Regulations was substituted by S.I. 1996/2269 and amended by S.I. 1997/312.

<sup>(11)</sup> Regulation E14 was amended by regulation 8 of S.I. 1998/2255.

- (a) which would have been pensionable employment but for his–
  - (i) having attained the age of 70,
  - (ii) not having made any election under regulation B7, and
- (b) in each case being employment of a kind referred to in regulation B1(1) commencing on or after 1st April 2000.

(1B) This regulation shall not apply in respect of a pension (or a part of a pension) to which a person is entitled by virtue of regulation E4(5A).”.

**23.** In regulation E15–

- (a) in paragraph (1)(b) after “pensionable employment” there shall be inserted the words “otherwise than by virtue of an election under regulation B7”, and
- (b) at the end of paragraph (7) there shall be added the following words–
 

“save that where the person ceases to be in further employment on or after 1st April 2000 and is entitled to payment of retirement benefits under sub-paragraph (3)(b), he shall upon attaining the age of 55 become entitled to retirement benefits multiplied by the appropriate factor.”.

**24.** After regulation E15 there shall be inserted the following regulation–

**“Retirement benefits on cessation of further employment where an election under regulation B7 has been made**

**E15A.**—(1) This regulation applies–

- (a) to a person who has been in further employment which is pensionable by virtue of an election under regulation B7 for the appropriate qualifying period under regulation E3(2A), and
  - (b) where such employment has ceased.
- (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 (3) 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) applies, subject to paragraph (7), a person’s entitlement to retirement benefits takes effect in accordance with regulation E4(8).
- (5) Where regulation E4(5) applies, subject to paragraph (7), a person’s entitlement to retirement benefits takes effect in accordance with regulation E4(9).
- (6) Where regulation E4(5A) applies, subject to paragraph (7), a person’s entitlement to retirement benefits takes effect in accordance with regulation E4(9A).
- (7) Where a person ceases to be in further employment which is pensionable by virtue of regulation B7 (“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.”.



**25.** In regulation E20–

- (a) at the end of paragraph (1)(c) there shall be inserted the word “or”, and
- (b) after paragraph (1)(c) there shall be inserted the following sub-paragraph–
  - “(d) was on unpaid maternity leave or parental leave.”.

**26.** In regulation E21–

- (a) in paragraph (2) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs–
  - “(a) the person became entitled to retirement benefits before 1st April 2000,
  - (b) at least 10 years' reckonable service was taken into account in calculating the person's retirement benefits, and
  - (c) the total of the amounts paid in respect of them is less than his average salary.”,
- (b) in paragraph (3) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs–
  - “(a) the person's entitlement to retirement benefits takes effect under regulation E4(7), (8) or (9) before 1st April 2000,
  - (b) less than 10 years' reckonable service was taken into account in calculating the person's retirement benefits, and
  - (c) the amount paid in respect of his retirement pension is less than 5 times the annual rate at which it was payable when he died,”and
- (c) there shall be inserted after paragraph (3) the following paragraph–
  - “(3A) If–
    - (a) the person's entitlement to retirement benefits takes effect under regulation E4(7), (8), (9) or (9A) on or after 1st April 2000, and
    - (b) the amount paid in respect of his retirement pension is less than 5 times the annual rate at which it was payable when he died,a supplementary death grant equal to that deficiency or, where regulation E5(3) applies for the calculation of retirement benefits, equal to that deficiency multiplied by the appropriate factor, may be paid.”.

**27.** In regulation E22–

- (a) after paragraph (1) there shall be inserted the following sub-paragraph–
  - “(1A) Where a person has further employment which is pensionable by virtue of regulation B7, in calculating the benefits payable under regulations E24 to E30, that further employment shall not be taken into account but those regulations shall apply to further employment which is pensionable by virtue of regulation B7 as it applies to any other pensionable employment.”, and
- (b) for sub-paragraph (a) in paragraph (5) there shall be substituted the following sub-paragraph–
  - “(a) his legitimate or illegitimate child born during his lifetime or within 12 months of the date of his death or his adopted child, or”.

**28.** In regulation E31,

- (a) in paragraph (3)(c) for “a transfer value has been accepted” there shall be substituted “a transfer value has not been paid”, and
- (b) in paragraph (11) for “an election is made under regulation G8(3) to pay” there shall be inserted “his employer makes an election under regulation G8(3) and pays”.

29. In regulation F1 for paragraph (4) there shall be substituted the following paragraph–

“(4) Subject to paragraph (4A) a transfer value shall not be paid in respect of a person who, when the application was received, had become entitled under regulation E4 to payment of retirement benefits or under regulation E16 or E17 respectively to a short-service annuity or incapacity grant and for the purposes of this paragraph, a person who is entitled to payment of such benefits includes a person who has not applied for payment of them.

(4A) A transfer value shall be paid if–

- (a) the employment in which the person has become subject to the receiving scheme is comparable British service, and
- (b) he entered it–
  - (i) immediately after ceasing to be in pensionable employment, or
  - (ii) on or before his 60th birthday, and
- (c) he has not applied for payment of any benefit.”.

30. After paragraph F1 there shall be added the following regulation–

**“Bulk Transfers**

**F1A.**—(1) This regulation applies where as the result of a transfer of undertakings to a new employer a person or a group of persons is no longer in pensionable employment of a kind referred to in regulation B1(1), and either has joined or is entitled to join the new employer’s pension scheme (“the receiving scheme”) referred to below as a “bulk transfer”.

(2) Subject to regulation F1(4) a transfer value may be calculated by the Secretary of State, after taking advice from the Government Actuary, in respect of a person who has made a written application to the Secretary of State for such a transfer within 3 months of the date on which he was notified of the opportunity to take part in the bulk transfer arrangement.

(3) Such transfer value may be paid to the receiving scheme on the person’s being subject to that scheme.”.

31. In regulation G5(12) in paragraph (2) for “next following the date of the first report made under regulation G4, is  $(A - 6) + B - C$ ” there shall be substituted the words “starting on the 1st April 2000, is  $((A - 6) + (B - C) + 0.2)$ ”.

32. In regulation G8 there shall be inserted after paragraph (8) the following paragraph–

“(9) Where regulation C3B applies the employer of the person in pensionable employment shall–

- (a) pay contributions calculated in accordance with regulation G5 and treated as due on the last day of each month for the period starting with the earlier date agreed under regulation B7(2)(c) and ending immediately before the first day of the month after that in which the notice was given,
- (b) pay interest on such contributions which have accrued at 7% per annum compounded with monthly rests from the 8th day after the end of the month in which the contributions were due to the date of payment of the contributions, and
- (c) pay such contributions and interest together with the amounts collected under regulation C18(1A) to the Secretary of State no later than 6 weeks after the date on which the employer gave his agreement under regulation B7(2)(c).”.

33. In regulation H1(1) at the end of sub-paragraph (e) there shall be added the word “and” and after that sub-paragraph there shall be added the following sub-paragraph–

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(12) Regulation G5 was amended by regulation 9 of [S.I. 1998/2255](#) and by regulation 5 of [S.I. 1999/607](#).

“(f) where he is not now in pensionable employment by virtue of regulation B7.”.

**34. In Schedule 1–**

- (a) for the definition of “Entitled” there shall be substituted the following definition–
- ““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 age of 60, or
- (ii) regardless of his age has ceased to be in further employment which is pensionable by virtue of an election under regulation B7, and
- (b) in all other cases, as including a reference to a person who has not applied for payment of such benefits.”;
- (b) for the definition of “Full-time” there shall be substituted the following definition–
- ““Full-time” Employment is “full-time” if the contract so describes it (whether expressly or otherwise) and requires the employee to work for the whole of the working week.”;
- (c) the following definitions shall be added at the appropriate places in alphabetical order–
- (i) “the 1985 Act” The Companies Act 1985**(13)**.
- (ii) “the 1986 Act” The Insolvency Act 1986**(14)**.
- (iii) ““Function provider” A body corporate (other than another local education authority) performing functions on behalf of a local education authority.”,
- (iv) ““Maternity leave” Leave within the meaning of Part II of the Maternity and Parental Leave etc. Regulations 1999**(15)**
- (v) ““Parental leave” Leave within the meaning of Part III of the Maternity and Parental Leave etc. Regulations 1999.”,
- (vi) ““Section 9(2B) rights” Rights (other than rights attributable to voluntary contributions within the meaning of section 111 of the 1993 Act) which are attributable to an earner’s service (within the meaning of sections 3, 4 and 112 of the Social Security Contributions and Benefits Act 1992**(16)**) on or after 6th April 1997 in employment which is contracted-out in accordance with section 9(2B) of the 1993 Act**(17)**.”,
- (vii) ““Transfer of undertakings” The meaning given by the Transfer of Undertakings (Protection of Employment) Regulations 1981**(18)**.”

**35. In Schedule 2–**

- (a) in paragraph 24 there shall be added at the appropriate places in alphabetical order the following–
- (i) “the Macmillan Institute of Education”,

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**(13)** 1985 c. 6.

**(14)** 1986 c. 45.

**(15)** S.I. 1999/3312.

**(16)** 1992 c. 4. Section 3 is amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2) (“the 1999 Act”), section 2, Schedule 3, paragraph 3 and the Social Security Act 1998 (c. 14) (“the 1998 Act”), sections 48 and 49. Section 4 is amended by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 11, Schedule 1, paragraph 1, Schedule 2, the 1998 Act, section 50, and the 1999 Act, section 2, Schedule 3, paragraph 4. Section 112 is amended by the 1999 Act, section 2, Schedule 3, paragraph 21, and the Employment Rights Act 1996 (c. 18), section 240.

**(17)** Section 9(2B) was inserted by section 136(3) of the Pensions Act 1995 (c. 26).

**(18)** S.I. 1981/1794, as amended.

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

- (ii) “a body affiliated to the National Open College Network”,
- (iii) “the Pestalozzi Children’s Village Trust”,
- (b) in paragraph 24–
  - (i) for “Associated Examining Board” there shall be substituted “the Assessment and Qualifications Alliance”,
- (c) in paragraph 26–
  - (i) there shall be added at the appropriate place in alphabetical order “ the International School of Hamburg (Germany)”, and
  - (ii) for “St George’s English School, Rome (Italy)” there shall be substituted “ St George’s British International School, Rome (Italy)”.

**36.** In Schedule 9 for Tables 1 to 4 (Early Retirement Factors) there shall be substituted the following tables–

**TABLE 1**

EARLY RETIREMENT FACTORS—PENSIONS

| Age            | Complete months |       |       |       |       |       |       |       |       |       |       |       |
|----------------|-----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|                | 0               | 1     | 2     | 3     | 4     | 5     | 6     | 7     | 8     | 9     | 10    | 11    |
| Complete years |                 |       |       |       |       |       |       |       |       |       |       |       |
| 50             | 0.580           | 0.582 | 0.584 | 0.587 | 0.589 | 0.591 | 0.593 | 0.595 | 0.598 | 0.600 | 0.602 | 0.604 |
| 51             | 0.606           | 0.609 | 0.611 | 0.614 | 0.616 | 0.619 | 0.621 | 0.623 | 0.626 | 0.628 | 0.631 | 0.633 |
| 52             | 0.635           | 0.638 | 0.641 | 0.643 | 0.646 | 0.649 | 0.651 | 0.654 | 0.657 | 0.659 | 0.662 | 0.665 |
| 53             | 0.667           | 0.670 | 0.673 | 0.676 | 0.679 | 0.682 | 0.685 | 0.688 | 0.691 | 0.694 | 0.697 | 0.700 |
| 54             | 0.703           | 0.706 | 0.709 | 0.713 | 0.716 | 0.719 | 0.723 | 0.726 | 0.729 | 0.733 | 0.736 | 0.739 |
| 55             | 0.742           | 0.746 | 0.750 | 0.753 | 0.757 | 0.761 | 0.764 | 0.768 | 0.771 | 0.775 | 0.779 | 0.782 |
| 56             | 0.786           | 0.790 | 0.794 | 0.798 | 0.802 | 0.806 | 0.810 | 0.813 | 0.817 | 0.821 | 0.825 | 0.829 |
| 57             | 0.833           | 0.837 | 0.842 | 0.846 | 0.850 | 0.854 | 0.859 | 0.863 | 0.867 | 0.871 | 0.876 | 0.880 |
| 58             | 0.884           | 0.889 | 0.893 | 0.898 | 0.903 | 0.907 | 0.912 | 0.917 | 0.921 | 0.926 | 0.930 | 0.935 |
| 59             | 0.940           | 0.945 | 0.950 | 0.955 | 0.960 | 0.965 | 0.970 | 0.975 | 0.980 | 0.985 | 0.990 | 0.995 |

**TABLE 2**

EARLY RETIREMENT FACTORS—LUMP SUMS

| Age            | Complete months |       |       |       |       |       |       |       |       |       |       |       |
|----------------|-----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|                | 0               | 1     | 2     | 3     | 4     | 5     | 6     | 7     | 8     | 9     | 10    | 11    |
| Complete years |                 |       |       |       |       |       |       |       |       |       |       |       |
| 50             | 0.712           | 0.714 | 0.716 | 0.718 | 0.720 | 0.722 | 0.724 | 0.726 | 0.728 | 0.730 | 0.732 | 0.734 |
| 51             | 0.736           | 0.738 | 0.740 | 0.742 | 0.744 | 0.747 | 0.749 | 0.751 | 0.753 | 0.755 | 0.757 | 0.759 |
| 52             | 0.761           | 0.764 | 0.766 | 0.768 | 0.770 | 0.772 | 0.774 | 0.777 | 0.779 | 0.781 | 0.783 | 0.785 |

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| Age            | Complete months |       |       |       |       |       |       |       |       |       |       |       |
|----------------|-----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|                | 0               | 1     | 2     | 3     | 4     | 5     | 6     | 7     | 8     | 9     | 10    | 11    |
| Complete years |                 |       |       |       |       |       |       |       |       |       |       |       |
| 53             | 0.788           | 0.790 | 0.792 | 0.794 | 0.797 | 0.799 | 0.801 | 0.803 | 0.806 | 0.808 | 0.810 | 0.812 |
| 54             | 0.815           | 0.817 | 0.819 | 0.822 | 0.824 | 0.826 | 0.829 | 0.831 | 0.834 | 0.836 | 0.838 | 0.841 |
| 55             | 0.843           | 0.845 | 0.848 | 0.850 | 0.853 | 0.855 | 0.857 | 0.860 | 0.862 | 0.865 | 0.867 | 0.870 |
| 56             | 0.872           | 0.875 | 0.877 | 0.880 | 0.882 | 0.885 | 0.887 | 0.890 | 0.892 | 0.895 | 0.897 | 0.900 |
| 57             | 0.902           | 0.905 | 0.907 | 0.910 | 0.913 | 0.915 | 0.918 | 0.921 | 0.923 | 0.926 | 0.928 | 0.931 |
| 58             | 0.934           | 0.936 | 0.939 | 0.942 | 0.944 | 0.947 | 0.950 | 0.953 | 0.955 | 0.958 | 0.961 | 0.963 |
| 59             | 0.966           | 0.969 | 0.972 | 0.975 | 0.977 | 0.980 | 0.983 | 0.986 | 0.989 | 0.992 | 0.994 | 0.997 |

TABLE 3

## EARLY RETIREMENT FACTORS—PENSIONS: CERTAIN NHS TRANSFEREES

| Age            | Complete months |       |       |       |       |       |       |       |       |       |       |       |
|----------------|-----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|                | 0               | 1     | 2     | 3     | 4     | 5     | 6     | 7     | 8     | 9     | 10    | 11    |
| Complete years |                 |       |       |       |       |       |       |       |       |       |       |       |
| 50             | 0.781           | 0.784 | 0.787 | 0.790 | 0.793 | 0.796 | 0.799 | 0.802 | 0.805 | 0.808 | 0.811 | 0.814 |
| 51             | 0.817           | 0.820 | 0.823 | 0.827 | 0.830 | 0.833 | 0.836 | 0.840 | 0.843 | 0.846 | 0.849 | 0.853 |
| 52             | 0.856           | 0.859 | 0.863 | 0.867 | 0.870 | 0.874 | 0.877 | 0.881 | 0.885 | 0.888 | 0.892 | 0.895 |
| 53             | 0.899           | 0.903 | 0.907 | 0.911 | 0.915 | 0.919 | 0.923 | 0.927 | 0.931 | 0.935 | 0.939 | 0.943 |
| 54             | 0.947           | 0.951 | 0.956 | 0.960 | 0.964 | 0.969 | 0.973 | 0.978 | 0.982 | 0.987 | 0.991 | 0.996 |

TABLE 4

## EARLY RETIREMENT FACTORS—LUMP SUMS: CERTAIN NHS TRANSFEREES

| Age            | Complete months |       |       |       |       |       |       |       |       |       |       |       |
|----------------|-----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|                | 0               | 1     | 2     | 3     | 4     | 5     | 6     | 7     | 8     | 9     | 10    | 11    |
| Complete years |                 |       |       |       |       |       |       |       |       |       |       |       |
| 50             | 0.843           | 0.845 | 0.847 | 0.850 | 0.852 | 0.855 | 0.857 | 0.860 | 0.862 | 0.864 | 0.867 | 0.869 |
| 51             | 0.872           | 0.874 | 0.877 | 0.879 | 0.882 | 0.884 | 0.887 | 0.889 | 0.892 | 0.895 | 0.897 | 0.900 |
| 52             | 0.902           | 0.905 | 0.907 | 0.910 | 0.913 | 0.915 | 0.918 | 0.920 | 0.923 | 0.926 | 0.928 | 0.931 |
| 53             | 0.934           | 0.936 | 0.939 | 0.942 | 0.944 | 0.947 | 0.950 | 0.953 | 0.955 | 0.958 | 0.961 | 0.963 |
| 54             | 0.966           | 0.969 | 0.972 | 0.975 | 0.977 | 0.980 | 0.983 | 0.986 | 0.989 | 0.992 | 0.994 | 0.997 |

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6th March 2000

*Malcolm Wicks*  
Parliamentary Under Secretary of State,  
Department for Education and Employment

We consent

8th March 2000

*Bob Ainsworth*  
*Greg Pope*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## EXPLANATORY NOTE

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

These Regulations amend the Teachers' Pensions Regulations 1997 ("the Principal Regulations"). Regulations 3 to 5 allow a teacher who is employed by a person performing functions on behalf of a local education authority to be a member of the Teachers' Pension Scheme provided that the employer has been accepted by the Secretary of State for that purpose.

Regulation 7 introduces a new regulation B7 under which full-time and part-time further employment after retirement may be pensionable upon making an election. With the agreement of the employer, and subject to payment of the necessary contributions and interest, an election may take effect from a date earlier than the date the election is made. This earlier date must be no earlier than 1st April 2000 or the date the further employment commenced if that is after 1st April 2000. A teacher in pensionable full-time further employment which commenced before 1st April 1997 is not affected by this regulation for so long as he remains in the same employment. A person who is in receipt of retirement benefits by virtue of ill-health (that is a Case B or Case C pensioner within regulation E4 of the Principal Regulations) cannot make an election under regulation B7 on ceasing to be incapacitated and returning to work unless he is in receipt of such a pension in respect of further employment which is pensionable under regulation B7.

Regulation 8 amends regulation C2 (which allows a person whose salary has been reduced to elect to continue paying higher contributions) by providing that the retail prices index for the month in which the teacher's salary was reduced is to be used to calculate the rate by which his salary shall be treated as increased for the purposes of paying higher contributions. A person who is in pensionable employment under regulation B7 is excluded from this provision.

Regulations 9, 14 and 32 make provision, consequent on an employer's decision to agree an earlier effective date in relation to a teacher's election under regulation B7, for the employer to collect employee contributions and interest and pay these with the relevant employer contributions and interest to the Secretary of State.

Regulations 10 to 13, and 33 exclude a person who is in pensionable employment under regulation B7 from regulations C4 (Additional contributions for past period), C5 (Additional contributions for past period by family pensioner), C9 (Additional contributions for current period), C16 (Return of repaid contributions), and H1 (Modified application in case of employment at reduced salary) of the Principal Regulations.

Regulation 15 makes provision for benefits in respect of a person's guaranteed minimum pension rights to be paid at state retirement age and for benefits in respect of a teacher's section 9(2B) rights (namely, rights attributable to a teacher's service in contracted-out employment on or after 6 April 1997) to be paid at age 60 where he has transferred his accrued rights in excess of those benefits to a non-contracted-out pension scheme.

Regulation 16 amends regulation E3 of the Principal Regulations to require a qualifying period of one year, which may be discontinuous, to be completed by a teacher who has made an election under regulation B7.

Regulation 17 amends regulation E4 (Entitlement to payment of retirement benefits) of the Principal Regulations by adding paragraphs (5A), (5B) and (9A) which provide for a new Case E. Paragraph (5A) provides that, subject to the conditions set out in paragraph (5B), a person may be paid actuarially reduced retirement benefits if he retires between the ages of 55 and 60. Actuarially reduced retirement benefits will not be paid if the annual amount is less than the aggregate annual

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value of any equivalent pension benefits and any guaranteed minimum pension to which the person is entitled. The employer's consent, which cannot be withheld for more than 6 months from the date on which the teacher notified his employer of his wishes, is required where the teacher is in pensionable or excluded employment at the time of his application. Paragraph (9A) determines the date when entitlement to such benefits takes effect.

Regulations 18 and 19 amend regulations E5 and E6 of the Principal Regulations to give effect to the amount of the actuarially reduced pension and lump sum to be paid.

Regulation 20 amends regulation E8 of the Principal Regulations to reduce from 5 years to 2 years the period needed to qualify for enhanced ill-health retirement benefits in respect of teachers who retire on the grounds of incapacity where pensionable or excluded employment terminates on or after 1st April 2000. Additionally, the enhancement which may be paid to a teacher whose ill-health retirement benefits are calculated by reference to further employment which is pensionable by virtue of an election under regulation B7 is limited to the shorter of the length of his relevant service or the length of the period remaining before the teacher's 60th birthday.

Regulation 21 amends regulation E13 of the Principal Regulations so that a teacher whose ill-health retirement benefits became payable on or after 1st April 1997 will cease to be treated as incapacitated if, on or after 30th March 2000, he becomes employed in a full-time or part-time capacity (pensionable or non-pensionable) in any employment which comes within the scope of the regulations.

Regulation 22 amends regulation E14 (Abatement of retirement pension during further employment) of the Principal Regulations so that further employment counts for the purposes of abatement whether an election under regulation B7 is made or not. It further amends regulation E14 so that a teacher's actuarially reduced pension will not be subject to abatement. Actuarially reduced pension income, however, is to be taken into account in assessing the overall retirement income where a teacher's benefits are subject to abatement by virtue of an award of unreduced retirement benefits.

Regulation 23 amends regulation E15 of the Principal Regulations so that it does not apply to teachers whose further employment is pensionable by virtue of an election under regulation B7. Regulation E15 will continue to have effect in relation to persons whose benefits become payable on cessation of pensionable full-time further employment which commenced before 1st April 1997 and other teachers who undertake pensionable employment (full-time or part-time) on ceasing to be incapacitated unless this follows further employment which was pensionable by virtue of an election under regulation B7.

Regulation 24 introduces a new regulation E15A to provide for the entitlement to further retirement benefits of a teacher who ceases to be employed in further employment which was pensionable by virtue of an election under regulation B7.

Regulation 25 amends regulation E20 of the Principal Regulations by extending the provisions relating to in-service death grant to those on unpaid maternity and parental leave.

Regulation 26 amends regulation E21 of the Principal Regulations to introduce a five year pension guarantee in respect of all teachers whose retirement benefits become payable on or after 1st April 2000.

Regulation 27 amends regulation E22 so that further employment which is pensionable by reason of an election under regulation B7 is treated separately from other employment in calculating family benefits. Regulation E22 is further amended to ensure that a teacher's natural children must be born, at the latest, 12 months after his death to be entitled to such benefits.

Regulation 29 amends regulation F1 as a consequence of the amended definition of "entitled" in Schedule 1.

Regulation 30 introduces a new regulation F1A to enable a transfer value to be paid, subject to the Government Actuary's advice, on terms that are preferential to the usual cash equivalent basis in



circumstances where the employment of one or more teachers is compulsorily transferred to a new employer and he or they are unable to remain in the Teachers' Pension Scheme.

Regulation 31 amends regulation G5 to increase employers' contributions by 0.2% from 1st April 2000.

Regulation 34 amends a number of definitions in Schedule 1 to the Principal Regulations. In particular, the definition of "entitled" is amended in relation to those who are aged under 60 and in relation to benefits which accrue as a result of an election under regulation B7.

Regulation 35 adds to Schedule 2 to the Principal Regulations further organisations whose employees may be members of the Teachers' Pension Scheme if they elect to be so.

Regulation 36 brings revised factors into effect in relation to early retirement benefits which come into payment on or after 30th March 2000.