

1978 No. 147

EDUCATION**Teachers' Superannuation (Amendment) Regulations
(Northern Ireland) 1978***Made* 1st June 1978*Coming into operation* 14th July 1978

The Department(a) of Education, after consultation as required by Article 11(5) of the Superannuation (Northern Ireland) Order 1972(b) with representatives of education and library boards and of teachers and with such representatives of other persons likely to be affected by these regulations as appear to it to be appropriate, and with the consent of the Department of the Civil Service(c), in exercise of the powers conferred upon it by Article 11 and Schedule 3 of the said Order and of every other power enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1978 and shall come into operation on 14th July 1978.

Interpretation

2.—(1) These regulations shall be construed as one with the Teachers' Superannuation Regulations (Northern Ireland) 1977(d) (in these regulations referred to as "the Principal Regulations") and the Principal Regulations and these regulations may be cited together as the Teachers' Superannuation Regulations (Northern Ireland) 1977 and 1978.

(2) References in these regulations to a numbered regulation or schedule are references to the regulation or schedule so numbered in the Principal Regulations.

Amendment of Principal Regulations

3. The Principal Regulations shall be amended as follows:—

(a) In regulation 19(2) (Maximum purchase of added years) after "as a result of incapacity" there shall be inserted "or in such circumstances that regulation 48A applies".

(b) (i) At the end of sub-paragraph (b) of regulation 21(1) (Purchase of past added years) there shall be inserted "subject, however, to paragraph (1A)".

(ii) After regulation 21(1) there shall be inserted:—

"(1A) In the case of a teacher who has become entitled to allowances by virtue of regulation 48A, no account shall be taken for the purposes of this regulation of any period for which he was not employed in reckonable service falling after the date on which his employment was terminated as mentioned in that regulation."

(a) Formerly Ministry: see 1973 c. 36 s. 40 and Sch. 5 para. 8(1)

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

(c) Formerly a function of the Department of Finance: see S.R. 1976 No. 281 (II, p. 1339) Article 3 and Sch. 1

(d) S.R. 1977 No. 260

- (c) At the end of regulation 22(2) (Election to purchase past added years) there shall be inserted "subject, however, to the provisions of regulation 21."
- (d) In regulation 23(5) (Method 1 contributions) after "sixtieth birthday" there shall be inserted "so, however, that, save in the case of a teacher who has become entitled to allowances by virtue of regulation 48A," and for "being", in both places where it occurs, there shall be substituted "shall be".
- (e) In regulation 26(3) (Pre-1973 contributors) for "allowances under regulation 48 or 52" there shall be substituted "benefit under regulation 48(1)(c) or 52".
- (f) For regulation 27(2) (Purchase of current added years) there shall be substituted:—

"(2) A teacher who has become employed in reckonable service after allowances have become payable to him under regulation 48(1)(c) or by virtue of regulation 48A may not purchase any years under this regulation unless, in the case of allowances under regulation 48(1)(c), his annual allowance has been suspended under regulation 72."

- (g) (i) At the beginning of regulation 41(3) (Deduction from terminal sum) there shall be inserted "Subject to paragraph (3A)."
- (ii) After regulation 41(3) there shall be inserted:—

"(3A) In the case of a teacher who has become entitled to allowances by virtue of regulation 48A paragraph (3) shall not apply but—

- (a) subject to sub-paragraph (b), regulation 61(3) shall have effect as if the service to which it applies by virtue of sub-paragraph (b) thereof were only the proportion here specified of the service specified in the said sub-paragraph, namely the proportion which the aggregate of the contributions which he has paid as there mentioned bears to the aggregate which he would have so paid had he continued to pay contributions under this section for the whole of the period specified under regulation 38(3)(b);
- (b) if he so elects by notice in writing to the Department within three months of his ceasing to pay contributions under this section, sub-paragraph (a) shall not apply but there shall be deducted from the terminal sum payable in respect of him, or paid to the Department in such manner as may be approved, the actuarial equivalent of the balance outstanding of his contributions under this section."
- (h) After regulation 48 (Entitlement to allowances) there shall be inserted:—

"*Application of regulation 48 in certain cases of premature retirement*

48A.—(1) This regulation shall apply to a teacher who ceases to be employed in reckonable service having attained the age of fifty but not having attained the age of sixty, if by written notice given to the Department his employer certifies that his service has been terminated—

- (a) by reason of his redundancy, or
- (b) subject to paragraph 2, in the interests of the efficient discharge of his employer's functions,

so, however, that this regulation shall not apply in the case of a teacher who is incapacitated when his service is terminated.

(2) In the case of a teacher to whom regulation 48A(1)(b) applies the service of that teacher shall not be terminated unless the Department approves the reason for his retirement.

(3) In the case of a teacher to whom this regulation applies, regulation 48(1) shall have effect as if—

- (a) for both the references to the age of sixty in sub-paragraphs (a) and (b) thereof there were substituted references to the age of fifty, and
- (b) sub-paragraph (c) were omitted therefrom.

(4) Any reference in these regulations to an allowance payable, or to which a teacher is entitled, by virtue of regulation 48(1)(a) or (b) includes, unless the context otherwise requires, a reference to an allowance payable, or to which a teacher is entitled, by virtue of regulation 48(1)(a) or (b) and this regulation.

(5) Proviso (b) to regulation 48(1) is hereby revoked and “(a)” shall be deleted from proviso (a).”

(i) In regulation 50(1) (Duration of annual allowance) after “regulation 48(1)(a) or (b)” there shall be inserted “(otherwise than by virtue of regulation 48A)”.

(ii) After regulation 50(1) there shall be inserted:—

“(1A) An annual allowance payable to a teacher by virtue of regulation 48A shall begin to accrue on the day following that on which he ceases to be employed in reckonable service.”

(j) In regulation 51(5) (Amount of additional allowance) for the words “For the purposes of” to the end there shall be substituted:—

“For the purposes of this paragraph, a teacher who before attaining the age of sixty—

- (a) becomes incapacitated, or
 - (b) ceases to be employed in reckonable service in such circumstances that regulation 48A applies,
- shall be treated as having continued in reckonable service until the date on which he attains the age of sixty.”

(k) (i) In paragraph (1) of regulation 69 (Allocation of annual allowance) after “payable to him” there shall be inserted “by virtue of regulation 48(1)(a) or (b)”.

(ii) In paragraph (4)(a) of regulation 69 after “begins to accrue” there shall be inserted “or that of his sixtieth birthday, whichever is the later”.

(iii) For paragraph (6) of regulation 69 there shall be substituted:—

“(6) Where a teacher has notified the Department of his intention to make an allocation but the declaration referred to in paragraph (1) has not been delivered to the Department before the date upon which his annual allowance begins to accrue or that of his sixtieth birthday, whichever is the later, then, in respect of the period beginning with the later of those dates and ending with the delivery of the teacher’s declaration (or his failure, following such medical examinations as are mentioned in paragraph 4 of Schedule 5, to satisfy the Department as to his health), payments on account of his annual allowance may be withheld in part so that the actual rate of those payments does not exceed two-thirds of the rate calculated under regulation 49; and after the expiry of the said period any overpayment or underpayment in respect thereof shall be deducted from, or, as the case may be, added to, subsequent payments on account of the allowance.”

- (D) In the heading to the fourth column to the Table to Schedule 5 (Allocation Declarations) and in the note to the said Table after "continuing" there shall be inserted "or retired".

Sealed with the Official Seal of the Department of Education for Northern Ireland on 1st June 1978.

(L.S.)

E. J. Kirkpatrick

Assistant Secretary

The Department of the Civil Service hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of the Civil Service for Northern Ireland on 1st June 1978.

(L.S.)

W. G. Robinson

Deputy Secretary

EXPLANATORY NOTE

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

These regulations amend the Teachers' Superannuation Regulations (Northern Ireland) 1977 ("the Principal Regulations") in a number of respects. They make provision for the payment of accrued superannuation allowances (pension and lump sum) to a teacher aged 50 or over whose service has been terminated by reason of redundancy or in the interests of the efficient discharge of his employer's functions. Under the current teachers' superannuation scheme, the earliest age at which a teacher can retire is 60, except where allowances on the grounds of infirmity can be awarded or except in the case of certain female teachers who first entered service before April 1972.

A retirement in the interests of the efficient discharge of the employer's functions will be subject to the approval of the Department of Education before the teacher's services are terminated. The part of the proviso to regulation 48(1) of the Principal Regulations which provided for the early payment of superannuation allowances in certain circumstances to a redundant primary teacher in service before 1st April 1972 is revoked.

The regulations also make consequential amendments to the Principal Regulations. These are:—

- (i) arrangements for the purchase of past and current added years under the Principal Regulations are designed to deal with normal age retirements or retirements on the grounds of infirmity. Regulation 3 paragraphs (a) to (f) introduce amendments to deal with the purchase of added years where an early retirement occurs under regulation 48A;
- (ii) regulation 3 paragraph (g) enables teachers who are retired under the new provisions of regulation 48A to defray the costs of family pensions attributable to reckonable service before April 1972;
- (iii) regulation 3 paragraph (i) provides that an annual allowance (pension) awarded under the new early retirement provision shall accrue from the day following the last day of service of the teacher and regulation 3 paragraph (j) is a consequential amendment to the provision in the Principal Regulations dealing with the maximum number of added years which can be taken into account for a teacher with less than 20 years reckonable service;
- (iv) regulation 3 paragraphs (k) and (l) provide for the situation which arises under the provisions for allocation of a teacher's pension in the light of the new category of early retirement.

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This Order has been exempted from printing by the Statutory Rules Act (Northern Ireland) 1958. A summary is given in the List of Statutory Rules of a Local Character under the heading AMENITY LANDS.