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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 69**

**The Teachers' Superannuation (Amendment)  
Regulations (Northern Ireland) 2015**

**Amendments to regulation E14 (Abatement of retirement pension during further employment)**

5. For regulation E14 substitute—

**“Interpretation: abatement of pension**

**E14.** In this regulation and regulations E14A to E14D

“abatable pension” means the sum of a person’s retirement pension—

- (a) disregarding the effect of any reduction under regulation E14D; and
- (b) excluding—
  - (i) phased retirement pension,
  - (ii) additional pension,
  - (iii) a pension (or part of a pension) which is payable to the person (P) by reason of Case G applying to P’s reckonable service, and
  - (iv) retirement benefits defined in and payable under the Teachers’ Pension Scheme Regulations (Northern Ireland) 2014<sup>(1)</sup>;

“adjusted salary of reference” for a person (P) is—

- (a) if P’s previous employment was full-time, the higher of—
  - (i) the highest salary taken into account in determining P’s average salary under regulation E31 or E31A, multiplied by the adjustment factor, or
  - (ii) (if applicable) the highest salary taken into account in determining P’s average salary under regulation E31 or E31A relating to P’s further employment, multiplied by the adjustment factor;
- (b) if P’s previous employment was part-time, the higher of the full-time equivalent of—
  - (i) the highest salary taken into account in determining P’s average salary under regulation E31 or E31A, multiplied by the adjustment factor, or
  - (ii) (if applicable) the highest salary taken into account in determining P’s average salary under regulation E31 or E31A relating to P’s further employment, multiplied by the adjustment factor;
- (c) if P becomes entitled to a further retirement pension during a tax year, and the salary of reference for P’s employment immediately prior to the further retirement (“the new higher salary of reference”) is higher than that for the previous employment (“the existing salary of reference”), the sum of—

- (i) the existing salary of reference divided by 365 multiplied by the number of days from the beginning of the tax year to the day before the further retirement; and
- (ii) the new higher salary of reference divided by 365 multiplied by the number of days from the date of entitlement to further retirement benefits to the end of the tax year;

“adjustment factor” for a salary is the amount (if any) by which, immediately before the first day of the employment, that salary would have increased if it had been the annual rate of an official pension as defined in section 5(1) of the Pensions Increase Act (Northern Ireland) 1971<sup>(2)</sup>, beginning and first qualifying for increases under that Act, on the same date as—

- (a) the last day of employment at that salary, in a case where the average salary was determined under regulation E31, or
- (b) the retirement pension, in a case where the average salary was determined under regulation E31A;

“initial adjusted salary of reference” is a person’s adjusted salary of reference divided by 365 and multiplied by the number of days in the initial period;

“initial period” is that part of a tax year running from a person’s entitlement day in respect of retirement benefits and ending at the end of the tax year;

“pension receipts” means the sum of a person’s retirement pension—

- (a) including—
  - (i) phased retirement pension,
  - (ii) a pension (or part of a pension) which is payable to the person (P) by reason of Cases A, F or G applying to P’s reckonable service, including mandatory compensation for premature retirement of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 2010<sup>(3)</sup>, and compensation payable under regulation 12 (discretionary compensation for premature retirement) of those Regulations,
  - (iii) retirement benefits defined in and payable under the Teachers’ Pension Scheme Regulations (Northern Ireland) 2014; and
- (b) excluding additional pension; and

“salary” means—

- (a) contributable salary;
- (b) pensionable earnings as defined in Chapter 4 of Part 3 of the Teachers’ Pension Scheme Regulations (Northern Ireland) 2014.

### **Scope of abatement of retirement pension following further employment**

**E14A.** Regulation E14B applies to a person (P) to whom retirement benefits have become payable and who is employed—

- (a) in pensionable employment, comparable service or employment which would have been pensionable but for—
  - (i) P having made an election under regulation B(4) (election for employment not to be pensionable), or

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(2) 1971 c. 35 (N.I.)  
 (3) S.R. 2010 No. 136

- (ii) P having reached the age of 75;
- (b) in part-time employment in a capacity described in paragraphs 1 to 6 of Schedule 2, which is not pensionable employment by reason of the fact that the employment falls within regulation B1(4) and P has not made an election for the purposes of that regulation; or
- (c) in full-time employment which is not pensionable employment by reason of the fact that the employment falls within regulation B1(2), and P has not made an election under that regulation.

**Abatement of a retirement pension following further employment**

**E14B.**—(1) Where this regulation applies to a person (P) and P is in an initial period—

- (a) if P’s salary in the employment during the initial period equals or exceeds P’s initial adjusted salary of reference, no abatable pension is to be paid in that tax year;
- (b) in any other case, the abatable pension to which P is entitled in the initial period is to be paid only in respect of X number of days, where

$$X = A/B$$

where

A is the amount by which P’s salary in the employment during the initial period falls short of P’s initial adjusted salary of reference; and

B is the total of P’s pension receipts for the initial period divided by the number of days in the initial period.

(2) Where this regulation applies to P and P is not in an initial period—

- (a) if P’s salary in the tax year equals or exceeds P’s adjusted salary of reference, no abatable pension is to be paid in that tax year;
- (b) in any other case, the abatable pension to which P is entitled in that tax year is to be paid only in respect of X number of days, where

$$X = A/B$$

where

A is the amount by which P’s salary in the employment during the tax year falls short of P’s adjusted salary of reference; and

B is the total of P’s pension receipts for the tax year divided by 365.

**Method of abatement**

**E14C.**—(1) Where the abatable pension of a person (P) falls to be reduced—

- (a) under regulation E14B(1), paragraph (2) applies, or
- (b) under regulation E14B(2), paragraph (3) applies.

(2) Where this paragraph applies, the Department is to pay P’s abatable pension in accordance with regulation E33, without taking account of the reduction, until the abatable pension has been paid in respect of the number of days calculated in regulation E14B(1)(b), on the assumption that P will remain in employment at the same salary for the remainder of the initial period.

(3) Where this paragraph applies, the Department is to pay P's abatable pension in accordance with regulation E33, without taking account of the reduction, until the abatable pension has been paid in respect of the number of days calculated in regulation E14B(2)(b), on the assumption that P will remain in employment at the same salary for the remainder of the tax year.

(4) When P's abatable pension has been paid in respect of the number of days calculated in regulation E14B(1)(b) or (2)(b) paragraph (5) applies, unless P ceases to be in the employment, or is in employment at a lower salary, in which case paragraph (6) applies.

(5) If this paragraph applies the Department is to pay no further abatable pension to P in respect of—

- (a) the remainder of the initial period, if regulation E14B(1)(b) applies, or
- (b) the remainder of the tax year, if regulation E14B(2)(b) applies.

(6) If this paragraph applies the Department is to pay P's abatable pension during the remainder of the initial period or tax year, of such amount and at such times as is necessary in order to achieve the outcome described in—

- (a) regulation E14B(1)(b) in respect of an initial period, or
- (b) regulation E14B(2)(b) in respect of a tax year.

#### **Recovery of overpaid pension**

**E14D.**—(1) If the abatable pension paid in any tax year has exceeded the amount which should have been paid by virtue of regulations E14B and E14C, the difference between the amount which has been paid and the amount which should have been paid is an overpayment to which paragraph (2) applies.

(2) Where this paragraph applies, the overpayment is recoverable—

- (a) under regulation E14E;
- (b) by a reduction in the abatable pension paid in any subsequent tax year; or by a combination of (a) and (b).

#### **Cessation of benefits where no entitlement**

**E14E.**—(1) This regulation applies where after paying a benefit the Department determines that there was no entitlement to the benefit.

(2) The Department may—

- (a) cease to pay the benefit;
- (b) withhold the whole or any part of the benefit;
- (c) in the case of a payment made when there was no entitlement to the benefit, recover any such payment.”.