
STATUTORY INSTRUMENTS

1997 No. 3001

The Teachers' Pensions Regulations 1997

PART H

MISCELLANEOUS AND SUPPLEMENTAL

Modified application in case of employment at reduced salary

H1.—(1) If—

- (a) a person who has been in pensionable employment either—
 - (i) continues to be employed by the same employer, or
 - (ii) ceases to be employed and is re-employed within six months (whether by the same or a different employer),at a reduced rate of contributable salary, and
- (b) where he continues to be employed by the same employer, is employed in a different post, and
- (c) he does not make an election under regulation C2(1) that his contributable salary is to be treated as having continued at the previous rate, and
- (d) the relevant employer notifies the Secretary of State in writing of the matters specified in paragraph (2) before—
 - (i) the date which is 3 months after the first day of his employment at the reduced rate, or
 - (ii) 3rd May 1998,whichever is the later
- (e) the application to him of this paragraph would, taking into account prospective increases under the Pensions (Increase) Act 1971 of benefits under Part E, be beneficial,

these Regulations have effect in relation to him with the modifications set out in Part II of Schedule 10.

(2) For the purposes of paragraph (1)(d) the matters which are to be notified to the Secretary of State are—

- (a) where the person continues to be employed with the same employer or ceases to be employed and is re-employed by the same employer, that the person's employment at a reduced rate of contributable salary is in the interests of the efficient discharge of the employer's functions, and
- (b) where the person ceases to be employed by one employer and is re-employed by a different employer—
 - (i) that the person had provided satisfactory service throughout the period of the person's employment with the relevant employer; and
 - (ii) that the person had ceased employment with the relevant employer with the intention of seeking employment in a new post with less responsibility.

- (3) For the purpose of this regulation—
 - (a) the contributable salary of a person in part-time employment is to be taken to be what it would have been if the employment had been full-time, and
 - (b) the “relevant employer” is—
 - (i) where the person ceases to be employed by one employer and takes up employment with a different employer, the person’s former employer, and
 - (ii) in any other case, the person’s employer.
- (4) A second or subsequent application of paragraph (1) does not affect its previous operation.

Modified application in certain other cases

H2.—(1) In relation to persons who made an election under regulation 4 of the Teachers' Superannuation (Policy Schemes) Regulations 1979(1) these Regulations have effect with the modifications set out in Part III of Schedule 10.

(2) In relation to persons with admitted service these Regulations have effect with the modifications set out in Part IV of Schedule 10.

(3) In relation to persons with specified country service these Regulations have effect with the modifications set out in Part V of Schedule 10.

(4) In relation to certain persons who were formerly members of the National Health Service Pension Scheme these Regulations have effect with the modifications set out in Part VI of Schedule 10.

Records and information

H3.—(1) The employer of a person in pensionable employment is to record for each financial year—

- (a) the rate of the person’s salary,
- (b) the amount of his contributable salary,
- (c) where during the financial year the person has spent one or more periods in part-time pensionable employment, the amount which his contributable salary would have if the employment had been full-time throughout the year,
- (d) any money value forming part of his contributable salary by virtue of regulation C1(1)(d) (accommodation and related services),
- (e) the contributions deducted under regulation C18(1),
- (f) the period during which he was in pensionable employment, and
- (g) the dates of any absence on sick leave or maternity leave, and the amount of salary paid during it.

(2) Employers are, within such reasonable time as he may require, to make to the Secretary of State such reports and returns, and to give him such information about persons who are or have been in pensionable employment, as he may reasonably require for the purposes of his functions under these Regulations; and such persons, and their personal representatives, are to give him such information and to produce such documents as he may reasonably require for those purposes.

Payments in respect of deceased persons

H4.—(1) This regulation applies where a person dies and the total of—

(1) [S.I. 1979/47](#) revoked by [S.I. 1988/1652](#).

(a) any sums that were due to him under these Regulations, and
(b) any sums payable under these Regulations to his personal representatives,
("the amount due") does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965(2) and applying in relation to the death.

(2) Where this regulation applies the Secretary of State may, without requiring the production of probate or other proof of title, pay the amount due—

- (a) to the personal representatives, or
(b) to the person, or to or among any one or more of any persons, appearing to him to be beneficially entitled to the estate.

Revaluation of guaranteed minimum in certain cases

H5.—(1) This regulation applies where a person has ceased to be in pensionable employment and has taken a right to a cash equivalent by requiring the Secretary of State to use the cash equivalent wholly or partly in the way specified in section 95(2)(c) of the 1993 Act (purchase of annuity).

(2) Where this regulation applies, to the extent that the person's guaranteed minimum is otherwise appropriately secured within the meaning of section 19(3) of the 1993 Act—

- (a) for the purposes of section 14(2) of that Act (amount of guaranteed minimum) the person's earnings factors shall be determined by reference to the last order under section 21 of the Social Security Pensions Act 1975(3) or section 148 of the Social Security Administration Act 1992(4) to come into force before the end of the tax year in which his service was terminated and without reference to the last such order to come into force before the end of the final relevant year, and
(b) the weekly equivalent mentioned in section 14(2) of the 1993 Act shall be increased in accordance with any additional requirements for the time being prescribed for the purposes of section 55(5) of that Act (exclusion from liability to pay a limited revaluation premium).
(3) In this regulation "final relevant year" has the meaning given in section 16(5) of the 1993 Act.

Repayment of contributions where an election is not made under regulation G8

H6.—(1) This regulation applies where—

- (a) a person receives an increase in contributable salary as is mentioned in regulation E31(11), but
(b) no election under regulation G8(3) has been made.
(2) Where this regulation applies the Secretary of State shall repay—
(a) to the person who was in pensionable employment a sum equivalent to A–B, and
(b) to that person's last employer before he became entitled to retirement benefits a sum equivalent to C–D.
(3) In paragraph (2) above—

A is the aggregate of the contributions paid by the person under regulation C3, C4, C6 or C11 during the relevant period,

(2) 1965 c. 32; the amount specified in S.I. 1984/539 is £5,000.

(3) 1975 c. 60.

(4) 1992 c. 5.

B is the aggregate of the contributions which would have been paid under regulation C3, C4, C6 or C11 during the relevant period if the person had actually received the salary which he was treated as having received under regulation E31(11),

C is the aggregate of contributions paid by the person's employer under regulation G5 during the relevant period, and

D is the aggregate of the contributions which would have been paid by the person's employer under regulation G5 during the relevant period if the person had actually received the salary which he was treated as having received under regulation E31(11),

and in this paragraph the "relevant period" is the period which started when the person received the increase in contributable salary as mentioned in regulation E31(11) and ended when the person became entitled to the payment of retirement benefits.

Extension of time

H7. The Secretary of State may in any particular case extend, or treat as having been extended, the time within which anything is required or authorised to be done under these Regulations.

Calculation of full-time equivalent salary

H8. Where any reference occurs in these Regulations, in relation to a person who is in, or has spent any period in, part-time employment to the amount which his contributable salary would have been if he had been employed full-time then, in a case where the person's contract entitles him to remuneration at a rate which is not expressed as a proportion of the annual, termly or monthly rate for a comparable full-time employment, the amount which his contributable salary would have been if the employment had been full-time shall be calculated on the same basis as is used for the calculation of the person's salary in the part-time employment in question.

Determination of questions

H9. All questions arising under these Regulations are to be determined by the Secretary of State.

Election in respect of protected benefits

H10.—(1) Where—

- (a) apart from this regulation, any provision of these Regulations, which re-enacts with any modification any provision revoked by these Regulations, would place any person to whom a protected benefit is or may become payable in a worse position than he would have been in if that modification had not been made, and
- (b) that person so elects, by giving written notice to the Secretary of State before 3rd May 1998,

then, subject to paragraph (3), these Regulations shall have effect, in relation to him and to that benefit as if these Regulations had re-enacted the revoked provision without modification.

(2) In this regulation "protected benefit" means a benefit payable to, or in respect of, a person who before 3rd February 1998—

- (a) was employed in pensionable employment but ceased to be so employed (whether or not he has subsequently become re-employed in pensionable employment); or
- (b) died.

(3) If an election under paragraph (1) is made in relation to a benefit of a person who is in pensionable employment or who subsequently becomes re-employed in pensionable employment—

- (a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue—
 - (i) of periods of reckonable service before the cessation referred to in paragraph 2(a) (or, if there had been more than one cessation, the last of them before 3rd February 1998, or
 - (ii) of contributions paid in respect of such periods of reckonable service; and
 - (b) in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never re-entered pensionable employment again at any time after the cessation referred to in paragraph (2)(a) (but without prejudice to the application of this paragraph);
- and these Regulations shall apply accordingly.

Consequential amendments of the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994

H11.—(1) The Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994(5) shall be amended as follows.

(2) In regulation 2(2) for the words “references to the 1988 Regulations are references to the Teachers' Superannuation (Consolidation) Regulations 1988” there shall be substituted the words “references to the 1997 Regulations are references to the Teachers' Pensions Regulations 1997”.

(3) In regulation 2(3)—

- (a) in the definition of “dependant” for the words “regulation E21 of the 1988 Regulations” there shall be substituted the words “regulation E22 of (as read with paragraph 14 of Schedule 15 to) the 1997 Regulations” and for the words “regulation E22 of the 1988 Regulations” there shall be substituted the words “regulation E23 of the 1997 Regulations”.
- (b) in the definitions of “pensionable employment”, “reckonable service” and “retire” for the words “the 1988 Regulations” there shall be substituted the words “the 1997 Regulations”; and
- (c) in the definition of “salary”—
 - (i) in sub-paragraph (a) for the words “regulation C1 of the 1988 Regulations” there shall be substituted the words “regulations C1 and C2 of the 1997 Regulations”; and
 - (ii) in sub-paragraph (b) for the words “regulation C8 or C8A of the 1988 Regulations” there shall be substituted the words “regulation C9 or C10 of the 1997 Regulations”.

(4) In regulation 7(2)—

- (a) in sub-paragraph (a) for the words “the 1988 Regulations” there shall be substituted the words “the 1997 Regulations”; and
- (b) in sub-paragraph (c) for the words “regulation C8 or C8A of the 1988 Regulations” there shall be substituted the words “regulation C9 or C10 of the 1997 Regulations”.

(5) In regulation 8(3) (in the definition of “C”) for the words “regulation C16(2) of the 1988 Regulations” there shall be substituted the words “regulation C18(2) of the 1997 Regulations”.

(6) In regulation 11(2) for the words “the 1988 Regulations” there shall be substituted the words “the 1997 Regulations”.

(7) In regulation 12(11) for the words “the 1988 Regulations” there shall be substituted the words “the 1997 Regulations”.

(8) In regulation 15(1)(b) for the words “regulation C13 of the 1988 Regulations” there shall be substituted the words “regulation C15 of the 1997 Regulations”.

(9) In regulation 16(3) for the words “E19(7) of the 1988 Regulations” there shall be substituted the words “E20(7) of the 1997 Regulations”.

(10) Regulation 20(5) shall cease to have effect.

(11) In paragraphs 3 and 4(1) of the Schedule for the words “regulation C8 or C8A of the 1988 Regulations” there shall be substituted the words “regulation C9 or C10 of the 1997 Regulations”.

(12) In paragraph 5(2) of the Schedule for the words “regulation C1(13) or C1(14) and (15) of the 1988 Regulations” there shall be substituted the words “regulation C1(9) or C1(10) and (11) of the 1997 Regulations”.

(13) In paragraph 11(1) of the Schedule for the words “regulation E4(7) of the 1988 Regulations” there shall be substituted the words “regulation E4(5) of the 1997 Regulations”.

(14) In paragraph 12 for the words “regulation E4(6) of the 1988 Regulations” there shall be substituted the words “regulation E4(4) of the 1997 Regulations” and for the words “regulation E8 of the 1988 Regulations” there shall be substituted the words “regulation E8 of the 1997 Regulations”.

Revocations, savings and transitional provisions

H12.—(1) Subject to the provisions of Schedule 15 the Regulations specified in Schedule 14 are revoked.

(2) Schedule 15 has effect for the purpose of making savings and transitional provisions consequential on the making of these Regulations.

(3) Nothing in Schedule 15 affects the general operation of sections 16 and 17 of the Interpretation Act 1978(6).

Amendments to, and modifications of, the Teachers' Superannuation (Consolidation) Regulations 1988

H13.—(1) From 1st September 1997 the Teachers' Superannuation (Consolidation) Regulations 1988(7) shall have effect with the amendments specified in Part I of, and the modifications specified in Part II of, Schedule 16.

(2) The amendments specified in Part I of that Schedule shall not however apply in relation to any person who became entitled to payment of retirement benefits before 1st September 1997 (whether or not he subsequently became entitled to such benefits by virtue of regulation E15 of those Regulations on or after that date).

(6) 1978 c. 30.

(7) S.I. 1988/1652.