
STATUTORY INSTRUMENTS

1997 No. 311

**The Teachers (Compensation for Redundancy
and Premature Retirement) Regulations 1997**

PART V

DISCRETIONARY COMPENSATION FOR PREMATURE RETIREMENT

Discretion to credit an additional period of service

11.—(1) The deciding authority, ascertained from the first and second columns of the table in Part I of Schedule 1, may, within 6 months after the material date, credit an eligible teacher (including an eligible teacher who has since died) with a period of service not exceeding the shortest of—

- (a) the period by which his effective service falls short of 40 years,
- (b) the period beginning on the day following the material date and ending with his 65th birthday, less, where paragraph 1 of Part II of Schedule 1 applies, any period required by paragraph 2 to be deducted,
- (c) the length of his effective service, and
- (d) 10 years.

(2) An eligible teacher's effective service comprises—

- (a) any period which he is entitled to count as reckonable service, and
- (b) if his former employment was not pensionable employment, any period which he would have been entitled so to count if it had been.

Compensation payable to credited teacher

12.—(1) A credited teacher is entitled to lump sum compensation and to annual compensation.

(2) Subject to regulations 17 (redundancy payments) and 18 (termination payments), the amount of the lump sum compensation is $A-B$, where—

A is the retirement lump sum to which he would be entitled on the hypothesis specified in paragraph (4), and

B is the assumed retirement lump sum.

(3) Subject to paragraph (6) and to regulations 17 and 19 to 21, the rate of the annual compensation is $C-D$, where—

C is the annual rate of the retirement pension to which he would be entitled on the hypothesis specified in paragraph (4), and

D is the annual rate of the assumed retirement pension.

(4) The hypothesis is that—

- (a) all his effective service counts as reckonable service,
- (b) the credited period counts as reckonable service after 30th September 1956, and

- (c) any actuarial reduction required by regulation E5(5) or E6(3) of the Superannuation Regulations is disregarded.
- (5) The assumed retirement lump sum and the assumed retirement pension are—
- (a) where all his effective service counts as reckonable service, those to which he is entitled disregarding any actuarial reduction required by regulation E5(5) or E6(3) of the Superannuation Regulations, and
- (b) in any other case, those to which he would have been entitled if all his effective service had counted as reckonable service disregarding any actuarial reduction required by regulation E5(5) or E6(3) of the Superannuation Regulations.
- (6) Where—
- (a) the material date is a date later than 30th August 1985, and
- (b) an occupational pension is being paid in respect of service before the material date, and
- (c) the aggregate of his effective service, any period in respect of which he is entitled to the occupational pension, and the credited period would exceed 40 years, and
- (d) the aggregate of the annual rates for the time being of the occupational pension and of the annual compensation under this regulation would exceed the relevant amount defined in paragraph (8),

the rate of the annual compensation under this regulation is to be reduced so that the relevant amount is not exceeded.

- (7) For the purposes of paragraph (6)—
- (a) the annual rate at any time of the annual compensation under this regulation and of any other official pension within the meaning of the 1971 Act are their annual rates as increased under that Act, and
- (b) the annual rate at any time of an occupational pension which is not such an official pension is its annual rate as increased under any contract, scheme or other arrangement.
- (8) The relevant amount mentioned in paragraph (6) is E+F, where—
- E is the amount specified in paragraph (9), and
- F is any amount by which E would have been increased if it had been the annual rate of an official pension within the meaning of the 1971 Act beginning, and first qualifying for increases under that Act, on the day after the material date.

- (9) The amount constituting E is—

$$\frac{G}{100} \times \left(50 + \frac{5 \times H}{4} \right)$$

where—

G is his average salary, and

H is the length in years of his effective service.

(10) For the purposes of this regulation an occupational pension is a pension by way of periodical payments, other than a retirement pension under the Superannuation Regulations or annual compensation payable under regulation 7, which is payable under an occupational pension scheme; and for the purposes of paragraph (9) regulation E29 of the Superannuation Regulations (average salary) is in every case to be construed as if the former employment were pensionable employment.

Allocation of part of annual compensation

- 13.—**(1) This regulation applies to a credited teacher who—

- (a) has under regulation E11 of the Superannuation Regulations allocated the largest permissible part of his retirement pension, and
- (b) has, within one month after being given notification under regulation 24 of the rate of his annual compensation payable under regulation 12, given written notice to the compensating authority that he wishes this regulation to apply to him.

(2) A person to whom this regulation applies may, by delivering a declaration to the compensating authority, allocate part of his annual compensation payable under regulation 12 to the provision of an alternative benefit of either of the kinds described in regulation E11(2) of the Superannuation Regulations.

(3) The ratio of the part allocated to the rate of the annual compensation payable under regulation 12 must not be higher than the ratio that the part of the retirement pension allocated had to the annual rate of the retirement pension disregarding any actuarial reduction required by regulation E5(5) of the Superannuation Regulations.

(4) For the purposes of paragraph (3) any reduction under Part VI of the annual compensation payable under regulation 12 is to be disregarded.

(5) Regulation E11(3) of the Superannuation Regulations and paragraphs 1(1), 2(2), 4 to 6, 7(1) to (3), (5) and (6), and 9 to 11 of Schedule 11(1) to those Regulations are to be treated as applying, with any necessary modifications, in relation to the making of allocations under this regulation as they apply in relation to the making of allocations under those Regulations by persons to whom retirement benefits become payable by virtue of regulation E4(7) of those Regulations (premature retirement).

(6) The modifications include the substitution—

- (a) for references to a retirement pension (including references to such pension calculated disregarding any actuarial reduction required by regulation E5(5) of the Superannuation Regulations) of references to annual compensation payable under regulation 12,
- (b) for references to the Secretary of State of references to the compensating authority, and
- (c) for the reference in paragraph 10(1) to a retiring employee of a reference to a credited teacher.

Short-term compensation on death

14.—(1) This regulation applies where a credited teacher dies and a short-term pension—

- (a) becomes payable under regulation E23 of the Superannuation Regulations, or
- (b) would have become so payable but for an election under regulation B6 of those Regulations.

(2) Subject to regulation 16 (duration), where this regulation applies short-term compensation shall be paid to, or as the case may be for the benefit of, the person or persons who are or would have been entitled to payment of the short-term pension.

(3) Subject to paragraph (4) and to regulation 19 (periodic payments), the rate of the short-term compensation is the rate at which the deceased's annual compensation payable under regulation 12 would have been payable immediately before his death if any reduction under regulation 18, 20 or 21(3) had been left out of account.

(4) If the deceased died in new employment which was pensionable employment, he is for the purposes of paragraph (3) to be taken to have ceased to be in that employment immediately before his death.

(1) Schedule 11 was amended by [S.I. 1996/312](#).

(5) If the rate calculated in accordance with paragraph (3) is less than that of long-term compensation to which there is a prospective entitlement under regulation 15, the rate of the short-term compensation is the same as that of the long-term compensation.

Long-term compensation on death

15.—(1) This regulation applies where a credited teacher dies and one or more long-term pensions—

- (a) become payable under regulation E25 of the Superannuation Regulations, or
- (b) would have become so payable but for an election under regulation B6 of those Regulations.

(2) Subject to regulation 16 (duration), where this regulation applies long-term compensation is to be paid to, or as the case may be for the benefit of, every person who became or would have become entitled to payment of a long-term pension.

(3) Subject to regulation 19 (periodic payments), the rate of the long-term compensation payable to a person who is not a child (“adult compensation”) is one half of the notional annual compensation rate.

(4) Subject to regulation 19, the rate of the long-term compensation payable to or for the benefit of a child or children (“children’s compensation”) is the appropriate fraction of the notional annual compensation rate.

(5) While adult compensation is payable, then—

- (a) while children’s compensation is payable to or for the benefit of two or more children, the appropriate fraction is one half, and
- (b) while it is payable to or for the benefit of one child, the appropriate fraction is one quarter.

(6) If adult compensation did not become payable, or has ceased to be payable, then—

- (a) while children’s compensation is payable to or for the benefit of two or more children, the appropriate fraction is two thirds, and
- (b) while it is payable to or for the benefit of one child, the appropriate fraction is one third.

(7) Subject to paragraph (8), the notional annual compensation rate is the rate at which the deceased’s annual compensation would have been payable under regulation 12 immediately before his death if there had been left out of account any allocation under regulation 13 and any reduction under regulation 17(4)(b), 18, 20 or 21(7).

(8) If the deceased died in new employment which was pensionable employment, he is for the purposes of paragraph (7) to be taken to have ceased to be in that employment immediately before his death.

Duration of compensation on death

16.—(1) Subject to paragraphs (2) and (5), a person’s short-term compensation under regulation 14 is payable from the day after that of the death, and the duration of the short-term compensation payable shall be ascertained from the table below.

TABLE

<i>Category</i>	<i>Person entitled to short-term compensation</i>	<i>Duration of compensation (months)</i>
1.	Spouse or nominated beneficiary	3

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

<i>Category</i>	<i>Person entitled to short-term compensation</i>	<i>Duration of compensation (months)</i>
2.	One child or more where adult compensation is payable	3
3.	One child or more where no adult compensation is payable	6

In the table above “adult compensation” means short-term compensation payable to a spouse or nominated beneficiary.

(2) Where a person died before 1st December 1996, the duration of the short-term compensation shall not be ascertained from the table in paragraph (1) above but shall be ascertained from the table in paragraph (1), and payable as set out in paragraph (1A), of regulation 11 of the 1989 Regulations⁽²⁾ as in force before the amendments made by the Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 1996⁽³⁾.

(3) Subject to paragraphs (4) and (5), a person’s long-term compensation under regulation 15 is payable—

- (a) from the day following that on which his short-term compensation ceases to be payable, or
- (b) if no short-term compensation was payable, from the day after that of the death,

and is payable for life.

(4) Unless the compensating authority determines otherwise in the particular case, long-term adult compensation is not payable during or after any marriage or period of cohabitation outside marriage.

(5) Short-term or long-term compensation payable to or for the benefit of a child ceases to be payable when he ceases to be a child.

⁽²⁾ Paragraph (1) of regulation 11 was substituted and paragraph (1A) was added by [S.I. 1994/1059](#).

⁽³⁾ [S.I. 1996/2777](#).