
STATUTORY INSTRUMENTS

1997 No. 675

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

Discretionary compensation for termination and mandatory compensation for premature retirement

7. After Part III (additional compensation for redundancy) there shall be inserted the following Parts:—

“PART IIIA

DISCRETIONARY COMPENSATION FOR TERMINATION

Teachers to whom Part IIIA applies

16A.—(1) Part IIIA shall apply to a teacher who on or after 1st April 1997 has ceased to hold employment of a kind specified in paragraph (2) with any employer by reason of his redundancy or in the interests of the efficient exercise of the employer’s functions and who is not entitled to payment of retiring allowances under regulation E5(1) of the Superannuation Regulations.

(2) The kinds of employment referred to in paragraph (1) are—

- (a) pensionable employment;
- (b) employment which would have been pensionable employment but for an election under regulation B6 of the Superannuation Regulations; and
- (c) employment as a part-time teacher which would have been pensionable employment if an election under regulation B2 of those Regulations had had effect.

Discretion to pay compensation

16B.—(1) The employer may pay to a teacher to whom this Part applies compensation which shall not exceed

(A-B),

where—

A is the lesser of—

- (a) a sum equivalent to 66 weeks' pay; and
- (b) the total of—
 - (i) a sum equivalent to 2 weeks' pay for each complete year of qualifying employment after the attainment of 18 years of age; and
 - (ii) a sum equivalent to 3 weeks' pay for each complete year of qualifying employment after attainment of 41 years of age; and

B is the amount of any payment received under regulation 16.

(2) In this regulation—

“qualifying employment” means a period of employment with an employer in relation to which the employer who may pay compensation under paragraph (1) is satisfied that the employee—

- (a) was in pensionable employment within the meaning of the Superannuation Regulations or was in employment which would have been pensionable employment but for a relevant disqualification; or
- (b) was in local government employment within the meaning of the 1987 Regulations or would have been treated as being in local government employment but for a relevant disqualification; or
- (c) was in pensionable employment within the meaning of the National Health Service Superannuation Scheme (Scotland) Regulations 1995⁽¹⁾ or was in employment which would have been pensionable employment but for a relevant disqualification,

but excludes—

- (i) periods of employment in an independent school within the meaning of section 135(1) of the Education (Scotland) Act 1980⁽²⁾; and
- (ii) any period in relation to which a pension or other benefits (other than a refund of contributions) under the relevant Regulations are being or have been paid;

“qualifying scheme” means an occupational pension scheme constituted under the relevant Regulations;

“relevant disqualification” means—

- (a) the failure of any medical examination required for membership of the qualifying scheme in question;
- (b) the requirement that a manual worker should have completed any period of continuous employment before he may become a pensionable employee within the meaning of the 1987 Regulations;
- (c) the making of any election to opt out of or the absence of an election to opt into membership of the qualifying scheme in question with respect to any period;
- (d) any restriction on part-time employment being pensionable employment under any qualifying scheme;
- (e) the fact that, where the employment is part-time, the person has not elected that it should be pensionable; or
- (f) the fact that a person is not eligible to be a pensionable employee within the meaning of the 1987 Regulations by reason of the fact that his employer has given him notice under regulation B4B(6) of those Regulations,

in consequence of one or more of which (either individually or cumulatively) that person has not become or has ceased to be or has not been treated as being eligible for the qualifying scheme in question;

“relevant Regulations” means, in respect of a period of employment which is qualifying employment by virtue of paragraph (a), (b) or (c) of the definition of that

⁽¹⁾ S.I. 1995/365.

⁽²⁾ 1980 c. 44; section 135(1) was relevantly amended by the Self-Governing Schools etc (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(22)(c).

term, the Superannuation Regulations, the 1987 Regulations or the National Health Service Superannuation Scheme (Scotland) Regulations 1995 respectively;
“the 1987 Regulations” means the Local Government Superannuation (Scotland) Regulations 1987(3).

PART IIIB

MANDATORY COMPENSATION FOR PREMATURE RETIREMENT

Mandatory compensation

16C.—(1) A person who is entitled to retirement allowances under regulation E5(1)(f) of the Superannuation Regulations and to whom regulations E6(4) and E7(3) of those Regulations apply (actuarial reductions on premature retirement) is entitled to lump sum compensation and to annual compensation under this regulation.

(2) The amount of the lump sum compensation under this regulation is the difference between the retirement lump sum calculated under regulation E7 of the Superannuation Regulations, applying regulation E7(3), or, as the case may be, the additional lump sum calculated under regulation E16 of those Regulations, applying regulation E7(3) in accordance with regulation E16(10)(4), and the amount which that lump sum would be if regulation E7(3) did not apply.

(3) Subject to paragraph (4), the rate of the annual compensation under this regulation is the difference between the annual rate of retirement pension calculated under regulation E6 of the Superannuation Regulations, applying regulation E6(4), or, as the case may be, the annual rate of additional retirement pension calculated under regulation E16 of those Regulations, applying regulation E6(4) in accordance with regulation E16(10), and the amount which that annual rate would be if regulation E6(4) did not apply.

(4) When a person in receipt of annual compensation under this regulation attains state pensionable age and the annual rate of his retirement pension under the Superannuation Regulations is increased by virtue of regulation E1 of those Regulations (guaranteed minimum pension), then from the date that he attained state pensionable age his annual compensation under this regulation shall be reduced by the difference between the annual rate of his retirement pension calculated with the operation of regulation E1 of the Superannuation Regulations and the annual rate as calculated without.

Abatement of annual compensation during further employment

16D.—(1) This regulation applies where the annual rate of a person’s retirement pension is reduced under regulation E15(5) of the Superannuation Regulations.

(2) Where this regulation applies the rate of the annual compensation under regulation 16C shall be reduced—

- (a) where the annual rate of the retirement pension is reduced to zero, to zero; and
- (b) in any other case, in the same proportion as the annual rate of the retirement pension is reduced under regulation E15(2)(b) of the Superannuation Regulations, applying paragraph (7) of that regulation.

(3) S.I. 1987/1850, amended by S.I. 1988/625, 1989/422, 802 and 967, 1990/422 and 1284, 1991/78, 1992/1220, 1597 and 3025, 1993/1593, 2013 and 3044, 1994/531, 1995/214, 750, 2865 and 3294 and 1996/414 and 1241.
(4) Regulation E16(10) was added by S.I. 1997/676.
(5) Regulation E15 was amended by S.I. 1997/676.

Supplementary deficiency grants

16E. Where paragraph (4A) of regulation E20(6) of the Superannuation Regulations applies, a supplementary grant may be paid by the employer to the person entitled under that regulation equal to the difference between the deficiency referred to in that regulation and the amount of grant that may be paid under paragraph (4A) of that regulation.

Entitlement to short-term family benefits

16F.—(1) This regulation applies where the annual rate of a person’s short-term pension under regulation E23 of the Superannuation Regulations is reduced by virtue of regulation E24(4) of those Regulations.

(2) Where this regulation applies the person to whom the short-term pension is payable under regulation E23 is entitled to compensation, for each month during which the short-term compensation is payable, which is equal to the amount by which the short-term pension is reduced for that month.

Notification of compensation

16G. As soon as is reasonably practicable after—

- (a) a person becomes entitled under regulation 16C or 16F; or
- (b) any adjustment has been made under regulation 16D,

the employer shall give the person written notification of the compensation payable or of any adjustment and, in each case, of the calculation thereof.”.