

2015 No. 601

EDUCATION, ENGLAND AND WALES

The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015

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The Secretary of State for Education makes the following regulations in exercise of the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act 2013(a) (“the 2013 Act”).

In accordance with section 21(3) of the 2013 Act the Secretary of State has consulted representatives of local authorities, teachers and other persons and representatives of such persons likely to be affected.

In accordance with section 3(5) of the 2013 Act these Regulations are made with the consent of the Treasury.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015 and come into force on 1st April 2015.

Interpretation

2.—(1) In these Regulations—

- (a) any expression for which there is an entry in the first column of Schedule 1 to the 2010 Regulations has the meaning given in the second column; and
- (b) any expression for which there is an entry in regulation 3 of the 2014 Regulations has the meaning given to it in that regulation.

(2) In these Regulations—

- “the 1996 Act” means the Employment Rights Act 1996(b);
- “the 1998 Act” means the School Standards and Framework Act 1998(c);
- “the 2002 Act” means the Education Act 2002(d);
- “the 2010 Regulations” means the Teachers’ Pensions Regulations 2010(e);

(a) 2013 c. 25.

(b) 1996 c. 18.

(c) 1998 c. 31.

(d) 2002 c. 32.

(e) S.I. 2010/990; amended by S.I. 2011/614, 2012/673, 2012/979, 2012/2270, 2013/275, 2014/424, 2014/560, 2014/2651, 2014/3061 and 2014/3255

“the 2014 Regulations” means the Teachers’ Pension Scheme Regulations 2014(a);

“the 2015 scheme” means the scheme established by the 2014 Regulations;

“adult compensation” has the meaning given in regulation 23;

“appropriate person” means—

(a) before 1st September 1999—

(i) in the case of a person employed at a maintained school within the meaning of section 20 of the 1998 Act(b) or at a grant-maintained or grant-maintained special school, the local authority;

(ii) in the case of any other employee, the person by whom the employee was employed;

(b) on or after 1st September 1999—

(i) in the case of a person employed at a foundation or voluntary aided school or a foundation special school within the meaning of section 20 of the 1998 Act, the local authority;

(ii) in the case of any other employee, the person by whom the employee was employed;

“compensating authority” is to be construed in accordance with regulation 35 and Schedule 2;

“credited teacher” has the meaning given in regulation 17;

“credited period” has the meaning given in regulation 17;

“deciding authority” is to be construed in accordance with regulation 34 and Schedule 2;

“effective service” has the meaning given in regulation 17(5);

“eligible teacher” has the meaning given in regulation 14(2);

“former employment” in relation to an eligible teacher or a credited teacher means relevant employment in relation to which the conditions in regulation 14(3) are satisfied, and “former employer” means the person who employed the teacher in that employment;

“local authority” has the same meaning as in section 579 of the Education Act 1996(c);

“long-term compensation” has the meaning given in regulation 21;

“material date” in relation to an eligible teacher or a credited teacher means the date on which the teacher ceased to hold a former employment;

“new employment” means employment mentioned in regulation 64A of the 2010 regulations;

“notional annual compensation rate” has the meaning given in regulation 15;

“redundancy payment” in relation to a person’s former employment means the aggregate of the amounts paid in respect of its cessation by way of—

(a) the redundancy payment to which the person became entitled under the Redundancy Payments Act 1965(d) or under Part 11 of the 1996 Act(e);

(b) any increase paid by the former employer before 11th August 1983 so that the payment, as increased, corresponded to that which would have been payable had the Redundancy Payments (Local Government) (Modification) Order 1983(f) been in force on the material date; and

(a) S.I. 2014/512; amended by S.I. 2014/2652 and S.I. 2014/3255.

(b) Section 20 was amended by the Education Act 2002 (c. 32) Schedule 21, paragraph 95; the Education and Inspections Act 2006 (c. 40), Schedule 3, paragraph 13(1), (2) and (3); S.I. 2010/1158; and the School Standards and Organisation (Wales) Act 2013 (anaw. 1), Schedule 5, Part 2, paragraph 19(1) and (2).

(c) 1996 c. 56; section 579 was substituted by S.I. 2010/1158.

(d) 1965 c. 62; repealed by 1989 c. 43

(e) Part 11 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), sections 1(2)(a) and (b), 11(2) and (3), Schedule 2; the Employment Relations Act 1999 (c. 26), Schedule 4, Part 3, paragraphs 5, 25, 26, 27, 29 and 30, Schedule 9, Table 2; S.I. 2001/1090; the Education Act 2002 (c. 32), Schedule 21, paragraph 31; the Enterprise Act 2002 (c. 40), Schedule 17, paragraphs 49(1), (2)(a) and (2)(b), Schedule 26; S.I. 2006/1031; the Employment Act 2008 (c. 24), section 7(2); S.I. 2010/1158; S.I. 2011/1133; the Sovereign Grant Act 2011 (c. 15), Schedule 1, paragraph 31; S.I. 2012/3014; and the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 2, paragraphs 15 and 34.

(f) S.I. 1983/1160; revoked by S.I. 1999/2277

(c) any compensation which was paid by the former employer under regulation 6 or was of an amount corresponding to that which would have been payable under that regulation if it had been in force on the material date;

“short-term compensation” has the meaning given in regulation 21;

“termination payment” has the meaning given in regulation 28;

“transition member” has the meaning assigned to it by paragraph 20 of Schedule 3 to the 2014 Regulations;

“a week’s pay” is to be calculated in accordance with Chapter 2 of Part 14 of the 1996 Act(a) but, for the purposes of these Regulations, the calculation date is the date that the person in question ceased to hold the relevant employment in question and that Chapter is to be applied as if section 227(1)(c) of the 1996 Act had been repealed.

(3) If these Regulations require anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

(4) For the purposes of these Regulations, a grant-maintained or grant-maintained special school is, in respect of any period before 1st September 1999, to be treated as a school maintained by a local authority.

Relevant employment

3.—(1) Subject to paragraph (3), relevant employment is employment falling within paragraphs 1, 2, 4, 6 or 7 of Schedule 2 to the 2010 Regulations or paragraphs 9, 10, 12, 14 or 15 of Schedule 1 to the 2014 Regulations.

(2) Employment is also relevant employment if a person who has made an election under regulation B1A(4) of the Teachers’ Pensions Regulations 1997(b) remains employed by—

(a) a local authority; or

(b) a function provider in connection with the performance of a function in respect of which the function provider is accepted in accordance with regulation 14 of the 2010 Regulations or paragraph 3 of Schedule 1 to the 2014 Regulations,

to undertake the same, or substantially the same, functions as the person was undertaking immediately before the date of the election, under either the same contract of employment or under a contract of employment which has effect by virtue of regulation 4 of the Transfer of Undertakings (Protection of Employment) Regulations 2006(c).

(3) Employment falling within paragraph 6 or 7 of Schedule 2 to the 2010 Regulations or paragraph 14 or 15 of Schedule 1 to the 2014 Regulations is only relevant employment if it is at an institution which is within the further education sector as defined in section 91(3) of the Further and Higher Education Act 1992(d)

Normal pension age

4.—(1) Subject to paragraphs (2) and (3), a person’s normal pension age is to be determined in accordance with Part 7 of the 2010 Regulations and regulation 3 of the 2014 Regulations.

(2) A person who is a member of the existing scheme with a normal pension age of 60 is, for the purposes of these Regulations, to be treated as having a normal pension age of 65.

(a) Chapter 2 of Part 14 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a); the Teaching and Higher Education Act 1998 (c. 30), Schedule 3, paragraph 14; the Employment Relations Act 1999 (c. 26), section 36(1)(a) and (c), Schedule 4, Part 3, paragraphs 5, 39 and 40, Schedule 9, Table 2, Table 10; the Employment Act 2002 (c. 22), Schedule 7, paragraphs 24, 45, 46, 47(1), (2) and (3); the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 1, paragraphs 1, 8 and 9; S.I. 2013/1949; the Children and Families Act 2014 (c. 6), section 127(2)(c); and S.I. 2014/382.

(b) S.I. 1997/3001; revoked by the 2010 Regulations

(c) S.I. 2006/246; regulation 4 was amended by S.I. 2014/16.

(d) 1992 c. 13; section 91(3) was amended by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 8, paragraphs 1 and 13(1) and (2).

- (3) The normal pension age of a transition member is—
- (i) in relation to reckonable service under the existing scheme which is taken into account in calculating mandatory compensation under Part 4, 65;
 - (ii) in relation to accrued pension under the 2015 scheme which is taken into account in calculating mandatory compensation under Part 4 or discretionary compensation under Part 5, the state pension age.

(4) A person who attains normal pension age in relation to the existing scheme but has not attained normal pension age in relation to the 2015 scheme is eligible to receive benefits under the existing scheme which are payable by reason of the person having attained normal pension age under that scheme and benefits under the 2015 scheme which are payable by reason of the person not having attained normal pension age under that scheme.

PART 2

Discretionary Compensation for Redundancy

Application of this Part

5. This Part applies to any person (P) who has become entitled to a redundancy payment under Part 11 of the 1996 Act in consequence of P having ceased to be employed in relevant employment.

Discretionary compensation for redundancy

6. The appropriate person may pay to a person to whom this Part applies compensation which does not exceed the difference between—

- (a) the redundancy payment to which the person is entitled under Part 11 of the 1996 Act; and
- (b) the redundancy payment to which the person would have been so entitled if section 227(1)(c) of the 1996 Act had been repealed.

PART 3

Discretionary Compensation for Termination

Application of this Part

7. This Part applies to any person (P) who has ceased on or after 1st April 1997 to be employed in relevant employment by reason of P's redundancy or in the interests of the efficient discharge of P's employer's functions.

Discretionary compensation for termination

8. Subject to section 37(1) to (3) of the 2002 Act(a) the appropriate person may pay to a person to whom this Part applies compensation which does not exceed A-B where—

A is a sum equivalent to 104 weeks' pay;

B is the aggregate of—

- (a) any redundancy payment to which the person is entitled under Part 11 of the 1996 Act; and

(a) Section 37(1), (2) and (3) was amended by S.I. 2010/1158.

- (b) any compensation which is paid to the person under Part 2.

PART 4

Mandatory Compensation for Premature Retirement

Entitlement to mandatory compensation

9.—(1) A person to whom paragraphs (3) and (5) or paragraphs (4) and (5) apply is eligible for annual compensation under these Regulations.

(2) A person to whom paragraph (3) and regulation 62(6) of the 2010 Regulations apply is eligible for lump sum compensation under these Regulations.

(3) This paragraph applies to a person (P) if—

- (a) P ceases to be in pensionable or excluded employment because P's employment is terminated by reason of P's redundancy or in the interests of the efficient discharge of P's employer's functions;
- (b) P has attained normal minimum pension age on or before the date that P falls within subparagraph (a);
- (c) P's employer gives written notice to the scheme manager that—
 - (i) P's employment was terminated by reason of P's redundancy or in the interests of the efficient discharge of the employer's functions; and
 - (ii) P's employer agrees that a premature retirement pension should become payable;
- (d) P has not received or is not to receive compensation under Part 3 as a result of the termination of the employment; and
- (e) P either—
 - (i) makes an application under regulation 107 of the 2010 Regulations for retirement benefits on the basis that P satisfies the requirements of this paragraph and that no Case in Schedule 7 to the 2010 Regulations other than Case A applies to P's reckonable service; or
 - (ii) is entitled to payment of a premature retirement pension under regulation 101 of the 2014 Regulations.

(4) This paragraph applies to a person (P) if—

- (a) P has attained normal minimum pension age and—
 - (i) if P is a member of the existing scheme, has not attained the age of 65;
 - (ii) if P is a transition member or a member of the 2015 scheme, has not attained normal pension age;
- (b) P is qualified or re-qualified for retirement benefits within the meaning of—
 - (i) regulation 54 of the 2010 Regulations; or
 - (ii) regulation 82 or 83 of the 2014 Regulations;
- (c) P's pensionable service in relation to an employment is terminated by reason of P's redundancy or in the interests of the efficient discharge of the functions of P's employer;
- (d) P's employer gives written notice to the scheme manager that—
 - (i) P's pensionable service was terminated by reason of P's redundancy or in the interests of the efficient discharge of the employer's functions; and
 - (ii) the employer agrees that a premature retirement pension should become payable to P;
- (e) P has not received and is not to receive compensation under Part 3 as a result of P's pensionable service being terminated;

- (f) P has left all eligible employment;
 - (g) P has applied under regulation 162 of the 2014 Regulations for payment of a premature retirement pension; and
 - (h) P has not applied under that regulation for payment of any other retirement pension.
- (5) This paragraph applies to a person to whom—
- (i) paragraph (6) or (7) of regulation 61 of the 2010 Regulations applies;
 - (ii) regulation 96 or 102 of the 2014 Regulations applies.
- (6) A transition member who is eligible for annual compensation in respect of pension accrued in the 2015 scheme is also eligible for annual compensation in respect of pension accrued in the existing scheme.

Calculation of annual compensation

10.—(1) Subject to paragraph 2, a person (P)’s rate of annual compensation under regulation 9(1) is—

- (a) if P was accruing pensionable service under the 2010 Regulations immediately before the termination of P’s employment, the difference between—
 - (i) the annual rate of P’s retirement pension calculated in accordance with regulation 61(5) of the 2010 Regulations or, if higher, the annual rate calculated in accordance with regulation 70(2) of those Regulations; and
 - (ii) the annual rate of P’s retirement pension calculated in accordance with regulation 61(6) or (7) of those Regulations, whichever is applicable;
- (b) if P was accruing pensionable service under the 2014 Regulations immediately before the termination of P’s employment, the total amount of any standard reduction and actuarial adjustment to which the annual rate of P’s retirement pension is subject in accordance with regulation 102(b) of the 2014 Regulations.

(2) If a person (P) in receipt of annual compensation under regulation 9(1) attains state pension age and the annual rate of P’s retirement pension under the 2010 Regulations is increased by virtue of regulation 120 of those regulations then from the date on which P attained state pension age P’s annual compensation under paragraph (1) is to be reduced by the difference between—

- (a) the annual rate of P’s retirement pension calculated subject to regulation 120 of the 2010 Regulations; and
- (b) the annual rate of P’s retirement pension calculated without reference to that regulation.

Calculation of lump sum compensation

11. The lump sum compensation payable to a person under regulation 9(2) is the amount of any reduction made under regulation 62(6) of the 2010 Regulations to the person’s retirement lump sum.

Further death grants

12.—(1) This regulation applies if a death grant is payable under regulation 87 of the 2010 Regulations or regulation 141 of the 2014 Regulations, whether or not such a grant is paid.

(2) If this regulation applies the compensating authority may pay a further death grant of A-B where—

A is 5 times the rate of annual compensation payable under regulation 10(1) at the date of the member’s death;

B is the amount of compensation paid to the person since the compensation became payable.

(3) If regulation 31 applies any amount by which the annual rate of compensation is reduced under that regulation is treated as being payable for the purposes of the calculation in paragraph (2).

Entitlement to short-term family benefits

13.—(1) This regulation applies if—

- (a) the amount of a person’s pension at the short-term rate payable under regulation 95 or 98 of the 2010 Regulations is reduced by the combined effect of—
 - (i) regulation 61(6) or (7); and
 - (ii) regulation 95(2)(d) or 98(3)(d)of the 2010 Regulations;
- (b) the amount of a person’s pension at the short-term rate payable under regulation 143 or 150 of the 2014 Regulations is reduced by the combined effect of—
 - (i) regulation 96 or 102; and
 - (ii) regulation 143(2)(b) or 150(2)(b)of the 2014 Regulations.

(2) If this regulation applies the person to whom a pension is payable at the short-term rate is eligible for 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.

PART 5

Discretionary Compensation for Premature Retirement

Application of this Part

14.—(1) This Part applies to eligible teachers.

(2) An eligible teacher is a person (P)—

- (a) to whom Part 4 applies, or would apply but for the fact that the member is a protected member;
- (b) who immediately before the material date was employed in relevant employment whether or not in a single post and, if in more than one post, had left all such posts on the material date; and
- (c) in relation to whom the conditions in paragraph (3) are satisfied.

(3) The conditions are that—

- (a) retirement benefits have not become payable to P by virtue of Case C applying to P’s reckonable service, and P has not applied for an ill-health pension or a total incapacity pension under regulation 162 of the 2014 Regulations;
- (b) there is no entitlement for P’s case to be considered or further considered for the payment of long-term or retirement compensation under the Colleges of Education (Compensation) Regulations 1975(a) (whether or not by way of review under regulation 32 of those Regulations) in respect of the termination of employment;
- (c) P has not received, and is not entitled to receive, a payment under section 37(1) to (3) of the 2002 Act.

Interpretation of this Part

15.—(1) In this part, “notional annual compensation rate” means the rate at which annual compensation would have been payable under regulation 19(1) immediately before the recipient’s death if there had been left out of account any reduction under regulation 27(4)(b), 28, 30 or 31.

(a) S.I 1975/1092; amended by S.I. 1981/1088.

(2) For the purposes of paragraph (1), if the deceased died in new employment which was pensionable employment the deceased is to be taken to have ceased to be in that employment immediately before death.

Adjustments

16. Adjustments to compensation payable under this Part may be made under Part 6.

Discretion to credit an additional period of service

17.—(1) The deciding authority may credit an eligible teacher, including an eligible teacher who has since died, (“a credited teacher”) with a period of service (“the credited period”).

(2) Schedule 1 makes provision for a deduction to be made from the credited period in the circumstances set out in paragraph 1 of that Schedule.

(3) The credited period is not to exceed the shortest of—

- (a) the period beginning on the day following the material date and ending on the date the member attains normal pension age less, if paragraph 1 of Schedule 1 applies, any period required by paragraph 2 to be deducted;
- (b) the length of effective service;
- (c) 10 years.

(4) Any credit by the deciding authority must be within 6 months after the material date.

(5) Effective service is the sum of—

- (a) any period or periods which the member is entitled to count as reckonable service under the 2010 Regulations or pensionable service under the 2014 Regulations; and
- (b) if the member’s employment was not pensionable service, any period which the member would have been entitled so to count if it had been.

Entitlement of credited teacher to compensation

18.—(1) A credited teacher is eligible for annual compensation.

(2) A credited teacher who is eligible for lump sum compensation under regulation 9(2) is eligible for lump sum compensation under this Part.

Calculation of annual compensation

19.—(1) Subject to regulations 27 and 28, the rate of annual compensation payable to a member of the existing scheme is calculated in accordance with the formula—

$$A \times B / C$$

where A is the member’s period of credited service, B is the member’s average salary and C is the accrual rate used to determine the annual rate of the member’s premature retirement pension.

(2) Subject to regulations 27 and 28, the rate of annual compensation payable to a member of the 2015 scheme, including a transition member, is calculated in accordance with the formula—

$$D \times E / 57$$

where D is the member’s salary on the material date or, if the member was not a full time employee on the material date, the salary that would have been payable had the member been a full time employee on the material date and E is the period of credited service under regulation 17.

Calculation of lump sum compensation

20. Subject to regulations 27 and 28, the amount of lump sum compensation under regulation 18(2) is the difference between—

- (a) the lump sum which would be payable under regulation 62 of the 2010 Regulations if the member's credited service under regulation 17 were added to the member's reckonable service under the 2010 Regulations; and
- (b) the lump sum which would be payable under regulation 62 of the 2010 Regulations if no such addition were made.

Short-term compensation on death

21.—(1) This regulation applies if a credited teacher (C) dies and a pension—

- (a) becomes payable at the short-term rate under regulation 95 or 98 of the 2010 Regulations or regulation 143 or 150 of the 2014 Regulations; or
- (b) would have become so payable but for an election under regulation 9 of the 2010 Regulations or regulation 28 or 31 of the 2014 Regulations.

(2) Subject to regulation 25, compensation ("short-term compensation") is to be paid to or, as the case may be, for the benefit of every person who is or would have been entitled to payment of the short-term pension.

(3) Subject to paragraph (4) and to regulation 29, the rate of the short-term compensation is the rate at which C's annual compensation payable under regulation 19 would have been payable immediately before C's death if any reduction under regulation 28 or 30 had not been made.

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

(5) If the rate calculated in accordance with paragraph (3) is less than that of long-term compensation to which there is prospective entitlement under regulation 22, the rate of the short-term compensation is the same as that of the long-term compensation.

Long-term compensation on death

22. Subject to regulation 25, compensation ("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 if a credited teacher dies and a pension—

- (a) becomes payable at the long-term rate under regulation 96 or 99 of the 2010 Regulations or regulation 144 or 151 of the 2014 Regulations; or
- (b) would have become so payable but for an election under regulation 9 of the 2010 Regulations or regulation 28 or 31 of the 2014 Regulations.

Adult Compensation

23. Subject to regulation 29, the rate of the long-term compensation payable to a person (P) who is not a child ("adult compensation") is—

- (a) if P is a member of the existing scheme with a normal pension age of 60, one half of the notional annual compensation rate;
- (b) if P is a member of the existing scheme with a normal pension age of 65, $1/160$ of $M \times N$, where
 - M is P's average salary;
 - N is P's family benefit service;
- (c) if P is a transition member or a member of the 2015 scheme, 37.5% of P's annual pension.

Child compensation

24.—(1) Subject to regulation 29, the rate of long-term compensation payable to or for the benefit of a child or children while adult compensation is payable is—

- (a) one quarter of the notional annual compensation rate if compensation is payable to one child;
- (b) one half of the notional annual compensation rate if compensation is payable to two or more children.

(2) Subject to regulation 29, the rate of long-term compensation payable to or for the benefit of a child or children if adult compensation did not become payable, or ceased to be payable, is—

- (a) one third of the notional annual compensation rate if compensation is payable to one child;
- (b) two thirds of the notional annual compensation rate if compensation is payable to two or more children.

Duration of compensation on death

25.—(1) Subject to paragraph (3), a person’s short-term compensation is payable from the day after that of the death, and the duration of the short-term compensation payable is to 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, civil partner, surviving nominated partner or nominated beneficiary	3
2	One child or more and adult compensation is payable	3
3	One child or more and no adult compensation is payable	6

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

(2) Subject to paragraph (3), a person’s long-term compensation is payable for life—

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

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

PART 6

Adjustments

Application of this Part

26. This Part applies to eligible teachers.

Redundancy payments

27.—(1) This regulation applies to a credited teacher (C) where—

- (a) C’s credited period exceeds 6 2/3rds years; and

- (b) C has received, or is to receive, compensation under regulation 6 in respect of the cessation of C's former employment.
- (2) If C's lump sum compensation payable under regulation 20 would exceed the relevant amount, it is to be reduced by the relevant amount.
- (3) If C's lump sum compensation payable under regulation 20 would equal the relevant amount, it is not to be paid.
- (4) If C's lump sum compensation payable under regulation 20 would be less than the relevant amount—
 - (a) it is not to be paid; and
 - (b) the rate of C's annual compensation payable under regulation 19 is to be determined by the scheme manager on advice from the scheme actuary.
- (5) The relevant amount is—

$$(3 \times A/10) \times B$$

where—

A is the amount of the redundancy payment;

B is the length of time, expressed in years and any fraction of a year, by which the credited period exceeds 6 2/3rds years.

Termination payments

- 28.**—(1) This regulation applies to a credited teacher (C) who receives a termination payment.
- (2) A termination payment is the aggregate of any lump sum payments made to C by C's former employer which—
- (a) are made in consequence of, or as compensation for, the loss of C's former employment;
 - (b) are made in pursuance of any contract or arrangement or any provision contained in, or made under, any enactment, whenever made or enacted;
 - (c) are not made by way of an excepted payment.
- (3) The excepted payments are—
- (a) a redundancy payment in respect of the cessation of C's former employment;
 - (b) so much of any payment in lieu of notice of termination of that employment as does not exceed the remuneration which C would, but for its termination, have received for the three months following the material date;
 - (c) compensation paid under regulation 8, 10, 11, 19 or 20.
- (4) If C's lump sum compensation under regulation 20 would exceed the termination payment, it is to be reduced by the amount of the termination payment.
- (5) If C's lump sum compensation under regulation 20 would be equal to the termination payment, it is not to be paid.
- (6) If C's lump sum compensation under regulation 20 would be less than the termination payment—
- (a) it is not to be paid; and
 - (b) C's annual compensation under regulation 19 is to be reduced by the difference.
- (7) C's annual compensation under regulation 19 is to be reduced by the amount of the termination payment if—
- (a) by reason of regulation 27(3) or (4) no lump sum compensation is payable under regulation 20; or
 - (b) lump sum compensation was paid under regulation 20 before the termination payment became payable.

(8) The reduction under paragraph (6)(b) in annual compensation payable under regulation 19 is a reduction in the total amount payable, and accordingly payment is to be suspended until the full reduction has been achieved

Periodic payments

29.—(1) This regulation applies if—

- (a) relevant periodic payments are payable to a credited teacher or to a person to whom compensation is payable under regulation 21 or 22; and
- (b) the material date is later than 31st August 1985.

(2) Relevant periodic payments are payments made by the credited teacher's former employer which—

- (a) are in respect neither of a lump sum nor of a return of contributions;
- (b) are made as mentioned in regulation 28(2); and
- (c) are not made under regulation 13.

(3) If the relevant periodic payments in respect of any period equal or exceed the annual or other compensation that would be payable in respect of that period, excluding any compensation paid under regulation 9 or 13, the compensation is not to be paid.

(4) If the relevant periodic payments in respect of any period are less than the compensation referred to in paragraph (3), that compensation is to be reduced by the amount of those payments.

Cessation of discretionary annual compensation during new employment

30.—(1) If a credited teacher (C) enters further employment, compensation payable under regulation 18(1) is to be reduced in accordance with this regulation.

(2) The reduction mentioned in paragraph (1) is to be made if the result of the calculation in paragraph (3) exceeds F, where F is the total, in years and any fraction of a year, of C's reckonable service assuming that C had remained in the former employment until, being an existing scheme member, C attained the age of 65 or, being a 2015 scheme member, C attained normal pension age.

(3) The calculation is as follows—

$$A + B + (C - D) + E$$

where—

A is C's effective service;

B is the period, in years and any fraction of a year, between the material date and the later of the date of completion of the further employment and the date C, being an existing scheme member, attains the age of 65 or, being a 2015 scheme member, attains normal pension age;

C is the credited period;

D is the total period in respect of which any previous reductions were made to compensation payable under regulation 31(1) as a result of C entering further employment;

E is the total, in years and any fraction of a year, of any additional periods of service credited to C in respect of termination or redundancy under the provisions referred to in paragraph 1 of Schedule 2.

(4) The reduction mentioned in paragraph (1) is to be calculated in accordance with the following formula—

$$G \times ((H \times J) / 80)$$

where—

G is the period, in years and any fraction of a year, by which the result of the calculation in paragraph (3) exceeds F;

H is the shorter of B and C-D;

J is the lower of C's average salary in the former employment and the figure produced by applying the formula $K - (K \times L) / (L + 100)$ where K is C's average salary in the new employment and L is the PIA index adjustment.

PART 7

Abatement

Abatement of annual compensation during further employment

31.—(1) This regulation applies if the amount of retirement pension paid to a person (P) is reduced under regulations 64A and 64B of the 2010 Regulations.

(2) If this regulation applies—

- (a) and by virtue of sub-paragraph (1)(a) or (2)(a) of regulation 64B of the 2010 Regulations no retirement pension is paid during a tax year, no compensation is to be paid under regulation 10 or 19 in that tax year;
- (b) and in any other case the compensation to which P is entitled under regulation 10 and the compensation to which P is entitled under regulation 19 in any tax year is each to be reduced if necessary so as to secure that the total compensation paid under regulation 10 and 19 during that tax year does not exceed $A \times (R/S)$ where—

A has the same meaning as in regulation 64B of the 2010 Regulations;

R is the full annual rate of P's compensation under regulation 10 during the tax year in question;

S is the total, for the tax year in question, of—

- (i) the full annual rate of P's retirement pension including, in the case of a transition member, any pension under the 2014 Regulations;
- (ii) the full annual rate of compensation payable under regulation 10; and
- (iii) the full annual rate of all compensation payable under regulation 19.

(3) If compensation under regulations 10 and 19 falls to be reduced under paragraph (2)(b) in any tax year—

- (a) the compensating authority is to pay the compensation under each regulation in accordance with regulation 41—
 - (i) at the rate which is appropriate without taking account of the reduction;
 - (ii) until the amount to which the compensation is to be reduced, on the assumption that P will remain in employment at the same salary for the rest of the tax year, has been paid; and
- (b) no further payment is to be made during that tax year.

(4) If there is a change in circumstances which results in a change to any of the conditions for calculating a reduction in annual compensation under paragraph (2) in any tax year, the compensating authority is to recalculate the amount of compensation which is payable in order to secure the result described in paragraph (2).

(5) For the purposes of paragraph (2)—

- (a) regulation 64B of the 2010 Regulations is to be construed as if the former employment were pensionable employment;

- (b) if P had more than one entitlement to annual compensation under regulation 19, R comprises the total annual compensation under regulation 19 but each component is to be reduced under paragraph (2)(b) only in the proportion which it bears to the total.

Abatement of discretionary annual compensation following termination or redundancy payment

32.—(1) The annual compensation under regulation 19 is to be reduced by the amount of the termination or redundancy payment if—

- (a) lump sum compensation was paid under regulation 20 before a termination payment or a redundancy payment became payable; and—
- (b) either—
 - (i) the termination payment, if paid before the lump sum compensation became payable, would have resulted in the lump sum compensation being reduced or not paid under regulation 28; or
 - (ii) the redundancy payment, if paid before the lump sum compensation became payable, would have resulted in the lump sum compensation being reduced or not paid under regulation 27.

(2) The reduction under paragraph (1) in annual compensation payable under regulation 19 is a reduction in the total amount payable, and accordingly payment is to be suspended until the full reduction has been achieved.

PART 8

Miscellaneous

Deciding and compensating authorities

33.—(1) Schedule 2 makes provision concerning the deciding authority and the compensating authority.

(2) The deciding authority is determined from the first and second columns of the table in Schedule 2.

(3) The compensating authority is determined from the first and third columns of the table in Schedule 2.

Categories of employment

34. For the purposes of regulation 33—

(1) Category A comprises relevant employment at a single school or institution maintained by a local authority which for the time being had a delegated budget as defined in section 139(5) of the Education Reform Act 1988(a) or section 49(7) of the 1998 Act.

(2) Category B comprises relevant employment at a school or institution maintained by a local authority which did not have a delegated budget, relevant employment by a local authority otherwise than at a school or institution and relevant employment at a maintained school or institution with a delegated budget which was concurrent with employment of either of those kinds or with relevant employment at another school or institution.

(3) Category C comprises relevant employment at an institution in respect of which the Secretary of State has entered into an Academy arrangement as defined in section 1 of the Academies Act 2010(b).

(a) 1988 c. 40; section 139 was repealed by the Further and Higher Education Act 1992 (c.13), section 85(1).

(b) 2010 c. 32; section 1 was amended by the Education Act 2011 (c. 21), section 53, and the Children and Families Act 2014 (c. 6), Schedule 3, Part 2, paragraph 95.

(4) Category D comprises relevant employment as a teacher by a function provider in connection with the performance of a function in respect of which the function provider is accepted in accordance with regulation 14 of the 2010 Regulations or paragraph 3 of Schedule 1 to the 2014 Regulations.

(5) Category E comprises relevant employment at an institution within the further education sector as defined in section 91(3) of the Further and Higher Education Act 1992.

Liability for compensation

35.—(1) The cost of compensation to which a person is entitled under Parts 4 and 5 is to be met by the compensating authority.

(2) If—

- (a) the former employer fell within category E; and
- (b) in consequence of any amalgamation, merger or other arrangement the institution becomes part of another (the “successor establishment”) and ceases to have a separate governing body

the governing body of the successor establishment becomes the compensating authority.

(3) The Secretary of State becomes the compensating authority if—

- (a) the former employer fell within category E; and
- (b) the institution closes and there is no successor establishment

(4) If the former employment did not fall within any of the categories A to E the compensating authority is—

- (a) the person or body of persons responsible for the management of the institution;
- (b) if the institution has amalgamated or merged with another institution or has closed, the institution with which it has amalgamated or merged or by which it has been succeeded (“the successor establishment”);
- (c) if there is no successor establishment, the Secretary of State.

(5) References in paragraphs (2) to (4) above to an institution include references to a successor establishment.

(6) If the former employment fell within category D the function provider is to pay to the Secretary of State on receipt of a written demand a sum equal to the actuarial value of the total compensation payable.

(7) If the former employment did not fall within any of the categories A to E and the compensating authority as determined under paragraph (4) is not the Secretary of State the compensating authority is to pay to the Secretary of State on receipt of a written demand a sum equal to the actuarial value of the total compensation payable.

Arrangements for payout

36.—(1) A compensating authority may—

- (a) pay any compensation under these Regulations for which it is liable; or
- (b) arrange for the compensation to be paid by any suitable person and for its reimbursement by the compensating authority.

(2) Arrangements for reimbursement may provide—

- (a) for the periodical repayment by the compensating authority of amounts paid on its behalf;
- (b) for a single payment by the compensating authority of a sum equal to the actuarial value of the total compensation payable; or
- (c) for the payment of such a sum by not more than five annual instalments.

Notification

37.—(1) The compensating authority is to give a written notification to every person to whom compensation has become payable or whose compensation is affected as soon as is reasonably practicable after—

- (a) an eligible teacher has been credited with a period of service under regulation 17;
- (b) a credited teacher has died;
- (c) a person becomes eligible for compensation under regulation 9;
- (d) any adjustment has been made under regulation 31 or Part 6.

(2) The notification is to state—

- (a) if paragraph (1)(a), (b) or (c) applies, what compensation is payable and how this has been calculated;
- (b) if paragraph (1)(d) applies, what adjustment has been made and how this has been calculated.

Supply of information

38.—(1) A credited teacher or a person eligible for compensation under regulation 9 who enters or leaves new employment is, within one month after doing so, to notify the compensating authority in writing of that fact.

(2) A person to whom compensation is payable must provide the compensating authority with such information, and produce such documents, as the compensating authority may reasonably require for the purposes of its functions under these Regulations.

Payment of compensation

39.—(1) Compensation, other than lump sum compensation payable under regulation 11 or 20, is to be paid in arrears—

- (a) at intervals of one month; or
- (b) at such longer intervals as may be agreed between the compensating authority and the recipient.

(2) If compensation ceases to be payable before the next date on which a payment would be due, a proportionate payment is to be made for the period beginning on the day after the period in respect of which the previous payment (if any) was payable ended and ending on the date of cessation (“the period”).

(3) A proportionate payment is a payment of—

$$((A/12) \times B + ((A/12) \times (C/D)))$$

where—

- A is the annual rate of the compensation;
- B is the number of complete months, if any, in the period;
- C is the number of days remaining in the period after deducting B;
- D is the number of days in the month in which the period ended.

(4) If a person eligible for payment of compensation (“P”) has not attained the age of 18, or is incapable by reason of infirmity of mind or body of managing P’s affairs, the compensating authority may—

- (a) pay it to any person having the care of P; or
- (b) apply it for the benefit of P or P’s dependents.

Compensation not assignable

40.—(1) Any assignment of, or charge on, or agreement to assign or charge, any compensation payable under these Regulations is void.

(2) On the bankruptcy of a person eligible for such compensation no part of the compensation is to pass to any trustee or other person acting on behalf of the creditors except in accordance with an income payments order made by a court under section 310 of the Insolvency Act 1986(a).

Modified application in relation to persons entitled to admitted service benefits

41. In relation to a person with admitted service these Regulations have effect subject to the modifications set out in Schedule 3.

PART 9

Consequential Amendments, Revocation and Transitional Provisions

Consequential amendments to the 2010 Regulations

42. The 2010 Regulations are amended as follows—

- (a) in regulation 63(2)(b), for “regulation 7 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997”, substitute “regulation 9 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015”;
- (b) in the definition of “pension receipts” in regulation 64—
 - (i) for “the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997” substitute “the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015”;
 - (ii) for “regulation 12 (discretionary compensation for premature retirement)” substitute “regulation 18 (entitlement of credited teacher to compensation)”;
- (c) in regulation 138(1), omit “and the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997”;
- (d) in Schedule 7—
 - (i) in paragraph 7(1)(c)(ii), for “regulation 7 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997”, substitute “regulation 9 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015”;
 - (ii) in paragraph 7(2), for “regulation 3(7)(a) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997”, substitute “regulation 34(1) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015”;
- (e) in Schedule 11—
 - (i) in the heading, omit “and the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997”;
 - (ii) omit Part 2.

Consequential amendments to the 2014 Regulations

43. The 2014 Regulations are amended as follows—

(a) 1986 c. 45; section 310 was amended by the Pensions Act 1995 (c. 26), Schedule 3, Paragraph 15(a) and (b), the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 2, paragraph 2, the Enterprise Act 2002 (c. 40), section 259 and Schedule 26 and S.I. 2011/1730 as amended by S.I. 2012/709.

- (a) in regulation 101(1)(e), for “Part 3 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997”, substitute “Part 3 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015”;
- (b) in regulation 101(3)(a), for “regulation 3(7)(a) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997”, substitute “regulation 34(1) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015”.

Revocation and transitional provisions

44.—(1) The Regulations specified in Schedule 4 are revoked.

(2) Anything done or having effect as if done under or for the purposes of a provision of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997(a) has effect, if it could have been done under or for the purpose of the corresponding provision of these Regulations, as if done under or for the purposes of that corresponding provision.

(3) If a period of time specified in, or applying by virtue of, a provision of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 is current at the commencement of these Regulations, these Regulations have effect as if the corresponding provision of these Regulations had been in force when that period began to run.

5th March 2015

David Laws
Minister of State
Department for Education

We consent

2nd March 2015

Mark Lancaster
Gavin Barwell
Two of the Lords Commissioners of Her Majesty’s Treasury

SCHEDULE 1

Regulation 17(2)

Previous compensation

1. This paragraph applies if, before the cessation of the former employment of a credited teacher (C), C has been credited with a period of additional service, or C’s period of service has been increased, for the purpose of calculating—

- (a) retirement compensation under regulations made under section 259 of the Local Government Act(b) on account of loss of employment;
- (b) benefit under regulations made under section 260 of the Local Government Act1972;

(a) S.I. 1997/311; amended by S.I. 1998/2256, 1999/608, 2000/664, 2005/2198, 2006/2216, 2006/3122, 2010/990, 2010/1172 and 2014/107.

(b) 1972 c. 70; section 259 was amended by the Local Government Act 1974 (c. 7), section 39.

- (c) compensation under any scheme made under section 1 of the Superannuation Act 1972(a) on account of C's retirement in the public interest, or for loss of office;
- (d) compensation under these Regulations or any regulations made under section 24 of the Superannuation Act 1972(b) on account of the termination of C's employment by reason of redundancy or in the interests of the efficient discharge of C's employer's functions;
- (e) compensation under any contract or arrangement made before 31st August 1985 in the expectation that regulations would be made under that section providing for compensation for such termination of employment.

2. The period to be deducted, if paragraph 1 applies, from the first period mentioned in regulation 17(3)(a) is $A - B - C$, where—

A is the period with which C has been credited, or by which C's service has been increased, as mentioned in paragraph 1;

B is any period by which A has been reduced in consequence of the cessation of subsequent employment;

C is the aggregate of any periods falling between the cessation of employment that gave rise to A and the material date during which C was neither in pensionable employment nor in employment which would have been pensionable employment but for an election under regulation 9 of the 2010 Regulations or regulation 28 or 31 of the 2014 Regulations.

SCHEDULE 2

Regulation 33

Deciding and compensating authorities

Table

<i>Employment category</i>	<i>Deciding authority</i>	<i>Compensating authority</i>
A	Governing body	Local authority
B	Local authority	Local authority
C	Academy trust	Academy trust
D	Function provider	Function provider
E	Governing body	Governing body

SCHEDULE 3

Regulation 41

Modified application in relation to persons entitled to admitted service benefits

1. A person who is entitled to an annual pension in respect of admitted service and to whom regulation 81(4) of the 2010 Regulations applies by virtue of Case D applying to the person's reckonable service is entitled to annual compensation and to lump sum compensation under this Schedule.

2. The rate of annual compensation is the difference between the rate of annual pension in respect of admitted service if calculated in accordance with regulation 81(2)(a) of the 2010 Regulations without any reduction under paragraph (4) of that regulation and the actual rate of annual pension.

(a) 1972 c. 11; there are amendments to section 1 which are not relevant to these Regulations.

(b) There are amendments to section 24 which are not relevant to these Regulations.

3. The amount of lump sum compensation is the amount by which the lump sum in respect of admitted service is reduced by virtue of regulation 81 of the 2010 Regulations.

4. Regulations 35, 36, 37, 38, 39 and 40 are to apply in relation to compensation payable under this Schedule as they apply in relation to compensation payable under regulation 9.

SCHEDULE 4

Regulation 44(1)

Revocations

<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997	S.I. 1997/311	The whole Regulations
The Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 1998	S.I. 1998/2256	The whole Regulations
The Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 1999	S.I. 1999/608	The whole Regulations
The Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 2000	S.I. 2000/664	The whole Regulations
The Teachers' Pensions (Amendment) Regulations 2005	S.I. 2005/2198	Regulations 5, 6 and 7
The Teachers Pensions (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 2006	S.I. 2006/2216	The whole Regulations
The Teachers' Pensions etc (Reform Amendments) Regulations 2006	S.I. 2006/3122	Regulation 2(2) Schedule 2
The Local Education Authorities and Children's Services Authorities (Integration of Functions) (Local and Subordinate Legislation) Order 2010	S.I. 2010/1172	Paragraph 29 of Schedule 3
The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014	S.I. 2014/107	Paragraph 23 of Schedule 1

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 ("the 1997 Regulations"). They make provision for payment of compensation to teachers for redundancy, termination or premature retirement.

Part 2 provides for payment to a teacher of discretionary compensation for redundancy in addition to the teacher's redundancy payment.

Part 3 provides for payment of discretionary compensation to a teacher for termination of employment by reason of redundancy or in the interests of the efficient discharge of the employer's functions.

Part 4 provides for payment of mandatory annual and lump sum compensation and other benefits to or in respect of a teacher for premature retirement by reason of redundancy or in the interests of the efficient discharge of the employer's functions. *Regulation 9* sets out the entitlement to annual compensation. *Regulation 10* provides for the calculation of annual compensation. *Regulation 11* provides for the calculation of lump sum compensation. The remainder of Part 4 makes provision for the payment and calculation of supplementary death grants and short-term family benefits.

Part 5 provides for payment of discretionary annual and lump sum compensation and other benefits to or in respect of a teacher for premature retirement by reason of redundancy or in the interests of the efficient discharge of the employer's functions. *Regulation 17* makes provision as to a deciding authority's discretion to credit a teacher with an additional period of service. *Regulation 18* sets out the entitlement of a credited teacher to discretionary compensation. *Regulation 19* provides the calculation of annual compensation. *Regulation 20* provides the calculation of lump sum compensation. The remainder of Part 5 provides for payment of short-term and long-term compensation on death.

Part 6 provides for adjustments to be made to payments under the regulations when a redundancy payment, a termination payment or a periodic payment is also made (*regulations 27, 28 and 29*). *Regulation 30* provides for cessation of discretionary annual compensation during new employment.

Part 7 provides for abatement of annual compensation during further employment (*regulation 31*) and for abatement of discretionary annual compensation following termination or redundancy (*regulation 32*).

Part 8 contains miscellaneous provisions regarding liability for and payment of compensation under Parts 4 and 5 (*regulations 33 to 40*) and regarding mandatory compensation for admitted service (*regulation 41*).

Part 9 contains consequential amendments, revocations and transitional provisions.

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations. The instrument has a minimal impact on the public sector.

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