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STATUTORY RULES OF NORTHERN IRELAND

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**1998 No. 333**

**EDUCATION**

**Teachers' Superannuation Regulations (Northern Ireland) 1998**

Made - - - - 22nd September  
1998  
Coming into operation 2nd November 1998

The Department of Education(1) in exercise of the powers conferred upon it by Articles 11(1)(2), (2), (2A)(3), (3), (3A)(4), (4) and (6)(5), 14(2)(6) and (3) and (3A) of and paragraphs 1, 3, 4, 6, 8, 9 and 11 to 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(7) and of all other powers enabling it in that behalf, and after consultation with representatives of education and library boards, and of teachers and with such representatives of other persons likely to be affected as required by Article 11(5) of that Order, and with the consent of the Department of Finance and Personnel(8), hereby makes the following Regulations:

**Part A**

**Preliminary**

**Citation and commencement**

**A1.** These Regulations may be cited as the Teachers' Superannuation Regulations (Northern Ireland) 1998 and shall come into operation on 2nd November 1998.

**Interpretation**

**A2.—**(1) In these Regulations, any expression in the first column of Schedule 1 has the meaning specified opposite thereto in the second column of that Schedule.

(2) In these Regulations—

(a) any reference to, or to things done or falling to be done under or for the purposes of, any provision of these Regulations shall, if and so far as the nature of the reference permits, be

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(1) Formerly Ministry: *see* 1973 c. 36Sch. 5 para. 8(1)  
(2) As amended by S.I. 1990/1509 (N.I. 13) Article 13(1)  
(3) As inserted by S.I. 1990/1509 (N.I. 13) Article 10(3)  
(4) As inserted by S.I. 1990/1509 (N.I. 13) Article 6(1)  
(5) As amended by S.I. 1990/1509 (N.I. 13) Articles 10(4) and 13(2)  
(6) Article 14 was amended by S.I. 1990/1509 (N.I. 13) Article 12(1) and (2) and Article 14(3A) was inserted by S.I.1990/1509 (N.I. 13) Article 12(3)  
(7) S.I. 1972/1073 (N.I. 10)  
(8) Formerly a function of the Department of Finance: *see* S.I. 1982/378 (N.I. 6) Article 3

construed as including, in relation to circumstances or purposes in relation to which the corresponding provision in any Regulations revoked by these Regulations, or in previous provisions, has or had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision;

- (b) any reference to the purchase of added years shall, in relation to previous provisions, be construed as including a reference to the payment of contributions by a person in respect of a period during which he was not in pensionable employment;
  - (c) any reference to contributions and benefits payable in respect of a person shall be construed as including a reference to contributions paid by him and benefits paid to him; and
  - (d) any reference to a transfer value paid or received shall be construed as including a reference to a transfer value which would have been paid or received but for arrangements made for the avoidance of payments between Departments.
- (3) For the purposes of these Regulations—
- (a) a person is qualified, or qualified by service, for a benefit if, on the day following his ceasing to be employed in reckonable service, he is entitled to payment thereof or would be so entitled but for his age;
  - (b) a person shall be taken to have ceased to be employed in reckonable service on the last day he is so employed or, as the case may be, the last day on which the employment was pensionable.

## Part B

### Pensionable Employment

#### Employment — general

**B1.**—(1) Subject to paragraphs (2), (4) and (5) and regulations B3 to B5, a person is in pensionable employment while he is in employment in a capacity specified in Schedule 2.

(2) Employment in a capacity described in Part II of Schedule 2 is not pensionable unless the person has elected that it is to be so.

(3) An election for the purposes of paragraph (2) shall not be made without the consent of the employer.

(4) A person who is in part-time employment is not in pensionable employment unless he has at some time made an election for the purposes of this regulation.

(5) A person who is employed as a temporary teacher or is in part-time employment is not in pensionable employment while he is entitled to be paid a teacher's pension.

(6) An election for the purposes of this regulation—

- (a) may be made at any time by giving written notice to the Department; and
- (b) has effect from the first day of the month following that in which the Department notifies the person making it of its acceptance unless the Department specifies an earlier date.

#### Continuing employment

**B2.** Subject to regulations B3 to B5, a person who immediately before 2nd November 1998 was in employment (“the first employment”) which was pensionable employment by virtue of

regulation 3(2)(b) of the 1977 Regulations<sup>(9)</sup> (employment in continuation of employment treated as reckonable service for the purposes of the 1972 superannuation Regulations) is in pensionable employment—

- (a) while he is in the first employment; and
- (b) while he is in employment which is in continuation of the first employment.

### **Exclusion from pensionable employment**

**B3.**—(1) A person is not in pensionable employment unless he is—

- (a) 18 years old or older and under the age of compulsory retirement; and
- (b) entitled to be paid his salary in full, or on sick leave and entitled to be paid not less than half his salary, or on maternity leave and entitled to be paid any contractual remuneration or statutory maternity pay or in part-time employment and has made an election in accordance with regulation B1(4).

(2) A person is not in pensionable employment while he is in an employment which immediately before 2nd November 1998 by virtue of regulation 5(1) of the 1977 Regulations (employments treated as not being reckonable service by previous provisions) was not pensionable employment.

(3) A person is not in pensionable employment in respect of any employment which commenced on or after 2nd November 1998 while he is entitled to be paid a teacher's pension, including cases where the annual rate of the pension has been reduced to zero in accordance with regulation E14 (abatement of retirement pension during further employment).

### **Election not to be pensionable**

**B4.**—(1) A person who—

- (a) is in pensionable employment; or
- (b) is not in pensionable employment but expects to enter an employment which would otherwise but for this regulation be pensionable employment,

may at any time, by giving written notice to the Department, make an election under this regulation.

(2) As from the date from which the election has effect—

- (a) where paragraph (1)(a) applies, the person ceases to be in pensionable employment for all purposes of these Regulations; and
- (b) in any case, subject to regulation B5, no subsequent employment of his is pensionable employment.

(3) Where paragraph (1)(a) applies, an election under this regulation—

- (a) if the notice is given within 3 months after the start of the person's pensionable employment, has effect as from the first day of his pensionable employment; and
- (b) in any other case, has effect from the first day of the month after that in which the notice was given.

(4) Where paragraph (1)(b) applies, the election has effect as from the day before that on which the person first enters any such employment as is there mentioned.

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(9) S.R. 1977 No. 260 as amended by S.R. 1978 No. 147, S.R. 1978 No. 351, S.R. 1979 No. 380, S.R. 1980 No. 435, S.R. 1981 No. 151, S.R. 1982 No. 12, S.R. 1982 No. 162, S.R. 1982 No. 346, S.R. 1987 No. 76, S.R. 1987 No. 86, S.R. 1987 No. 315, S.R. 1988 No. 64, S.R. 1988 No. 167, S.R. 1988 No. 363, S.R. 1989 No. 25, and S.R. 1989 No. 181

### **Election to rejoin pensionable service**

**B5.**—(1) A person who has made an election under regulation B4, who has since been in employment which would otherwise have been pensionable employment (“excluded employment”), and who—

- (a) is in excluded employment; or
- (b) is not in, but expects to enter, excluded employment,

may at any time, by giving written notice to the Department, make an election under this regulation.

(2) As from the date on which the election has effect, subject to regulation B4 any employment on and after that date which would otherwise have been excluded employment is pensionable employment.

(3) Where paragraph (1)(a) applies, an election under this regulation—

- (a) if the notice given within 3 months after the start of any period of excluded employment, has effect as from the first day of that employment; and
- (b) in any other case, has effect from the first day of the month after that in which the notice was given.

(4) Where paragraph (1)(b) applies, the election has effect as from the day before that on which the person first enters any excluded employment.

## **Part C**

### **Teachers' Contributions**

#### **Salary on which contributions are payable**

**C1.**—(1) Subject to paragraphs (2) to (12), a person’s contributable salary is the total of—

- (a) the amounts payable by his employer, in respect of his pensionable employment—
  - (i) by way of salary; and
  - (ii) in satisfaction of any statutory liability arising out of sickness or maternity; and
- (b) if the employer has satisfied the Department that it is expedient for residential accommodation to be provided free in connection with the employment, the money value as an allowance in kind of—
  - (i) the accommodation provided; and
  - (ii) any heating or lighting provided free in connection with such accommodation.

(2) Where a person’s contributable salary is reduced due to maternity leave or adoption leave the employee’s contributions shall be based on the actual rate of salary paid and the employer’s contributions shall be based on the notional rate as defined in paragraph (6).

(3) If the money value of any accommodation provided, as mentioned in paragraph (1)(b)(i), exceeds one sixth of the amounts mentioned in paragraph (1)(a), the excess is not part of the person’s contributable salary.

(4) A person’s contributable salary does not include—

- (a) any allowance in kind not falling within paragraph (1)(b);
- (b) any payment in respect of overtime;
- (c) any payment by way of travelling or expense allowance; or
- (d) any payment by way of bonus.

- (5) For the purposes of paragraph (4)—
- (a) a payment by way of bonus shall not include any payment calculated by reference to the performance of the person in question or the performance of the institution where he is employed;
  - (b) a payment by way of bonus shall not include any payment made to the person in question where such a payment is made as part of a pay settlement which applies to all persons, or to all persons of a particular class or description, employed at the institution;
  - (c) if at any time a payment is made to a person which is not part of his contributable salary then any subsequent payment of the same nature is a payment by way of bonus (whether or not it is described as such); and
  - (d) if at any time a payment is made to a person which is part of his contributable salary then any subsequent payment of the same nature is not a payment by way of bonus (whether or not it is described as such).
- (6) A person who continues in full-time pensionable employment but whose contributable salary is reduced, otherwise than by reason of sick leave, adoption leave or maternity leave, may elect that it is to be treated as having continued at the rate applicable immediately before the reduction (“the notional rate”).
- (7) An election for the purposes of paragraph (6)—
- (a) shall be made by giving written notice to the Department within 3 months after the reduction;
  - (b) has effect from the day after the last day on which the person’s salary was payable at the rate applicable before the reduction; and
  - (c) subject to paragraph (9), continues to have effect until a relevant event occurs in relation to the person who made it.
- (8) For the purposes of paragraph (7)(c) the relevant events in relation to any person are—
- (a) the actual rate at which the salary is paid exceeds the notional rate;
  - (b) that person enters employment as a temporary teacher or part-time pensionable employment; and
  - (c) unless he elects to pay additional contributions under regulation C6 or C7, that person ceases to be in pensionable employment.
- (9) An election made for the purposes of paragraph (6) may be cancelled by giving written notice to the Department at any time.
- (10) Notice of cancellation under paragraph (9)—
- (a) has effect from the first day of the month following that in which it was received; and
  - (b) is irrevocable.
- (11) If, while an election made for the purposes of paragraph (6) has effect there is any further reduction during a period of sick leave, adoption leave or maternity leave, the notional rate shall, during that period, be treated as having been reduced in the same proportion as the actual rate.
- (12) Subject to paragraphs (13) and (14), in the case of a person entering pensionable employment after 31st May 1989 with no right to count any period before 1st June 1989 as reckonable service, in any tax year in which the contributable salary calculated in accordance with paragraphs (1) to (11) exceeds the permitted maximum in terms of section 590C of the Income and Corporation Taxes Act 1988 (earnings cap)<sup>(10)</sup>, the excess does not form part of his contributable salary.
- (13) Paragraph (12) shall not apply to a person—

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(10) 1988 c. 1; section 590C was inserted by the Finance Act 1989 (c. 26) Schedule 6, paragraph 4

- (a) who was in pensionable employment before 1st June 1989 and who resumes pensionable employment following—
  - (i) an absence on maternity leave in respect of which she enjoyed a right to return to work under Articles 111 to 117 of the Employment Rights (Northern Ireland) Order 1996<sup>(11)</sup>;
  - (ii) a period of secondment or additional period of absence necessarily attributable to that secondment; and
  - (iii) in any other case, a break in pensionable employment not exceeding one year; or
- (b) who was in comparable service before 1st June 1989 and who enters pensionable employment provided there has not been a period of more than one year between cessation of employment in comparable service and entering pensionable employment.

(14) For the purpose of paragraph (13), “comparable service” does not include service which is pensionable under a superannuation scheme for teachers in public employment in the Channel Islands or the Isle of Man.

### **Ordinary contributions**

**C2.**—(1) Subject to paragraph (2) a person who is in pensionable employment shall pay contributions of 6 per cent of his contributable salary for the time being.

(2) Contributions shall not be paid by any person whose reckonable service exceeds 45 years.

### **Contributions for past added years**

**C3.**—(1) This regulation applies to a person who—

- (a) is in pensionable employment; and
- (b) first became employed in pensionable employment, or has been credited with reckonable service on the receipt of a transfer value in respect of comparable service that began, before he attained the age of 55; and
- (c) has not become entitled to payment of retirement benefits under regulation E4(2) to (5).

(2) Subject to paragraphs (3) to (13), a person to whom this regulation applies may elect to pay additional contributions in accordance with—

- (a) Part I of Schedule 4 (“Method A”); or
- (b) Part II of Schedule 4 (“Method B”),

in order to become entitled to count an additional period (“the past period”) as reckonable service.

(3) Subject to paragraphs (4), (5), (7) and (13) the employer of a person to whom this regulation applies may elect to pay additional contributions in respect of the person in accordance with Part II of Schedule 4 (“Method B”).

(4) The past period shall not exceed the maximum calculated in accordance with Schedule 3, and shall—

- (a) have begun after the person attained the age of 20;
- (b) have ended—
  - (i) before he attained the age of 60;
  - (ii) before the date of the election under paragraph (2); and
  - (iii) if he has become entitled to payment of retirement benefits by virtue of regulation E4(7) (redundancy, etc), before the relevant termination of employment;

- (c) be one during which he was not in full-time pensionable employment, unless—
    - (i) contributions in respect of the period have been repaid after 31st May 1973; or
    - (ii) the right to count reckonable service in respect of it has been extinguished by payment of a transfer value;
  - (d) if payment is to be made by Method A, satisfy paragraph 2 of Part I of Schedule 4; and
  - (e) unless payment is to be made by Method B and notice of the election is given no earlier than the date of applying for payment of retirement benefits, be a period of not less than 30 days.
- (5) If the person is already entitled to count any reckonable service in respect of the past period, that period is for the purposes of payment under this regulation and those of regulation D1 (reckonable service) reduced by the length of that service.
- (6) Where payment is to be made by Method A, the period during which additional contributions are to be paid (“the contribution period”) shall satisfy paragraph 2 of Part I of Schedule 4.
- (7) Subject to paragraph (8) an election under this regulation may be made at any time.
- (8) A person shall not simultaneously make different elections under this regulation, except that an election to make payment by Method A may be made at the same time as an election to make payment by Method B in respect of a different past period.
- (9) An election under paragraph (2) shall be made by giving written notice to the Department, which—
- (a) specifies the past period;
  - (b) specifies the method by which payment is to be made;
  - (c) where payment is to be made by Method A, specifies the length of the contribution period; and
  - (d) where payment is to be made by Method A, contains a declaration that the person has no reason to believe that his health may prevent him from continuing in pensionable employment until payment has been completed.
- (10) Where the Department has notified the person in writing that his election under this regulation has been accepted, the person may at any time revoke the election by giving written notice to the Department but, in the case of such election being so revoked, any additional contributions paid up to that time shall not be refunded.
- (11) Where payment is to be made by Method A and—
- (a) within 12 months after the date of the election the person becomes incapacitated; and
  - (b) the declaration required by paragraph (9)(d) was not made in good faith,
- the election shall be treated as not having been made and any additional contributions paid shall be refunded.
- (12) An election under paragraph (3) shall be made by giving written notice to the Department which shall specify—
- (a) the person in respect to whom it is made; and
  - (b) the past period.
- (13) An election or a revocation of an election under this regulation has effect only if the Department notifies the person in writing that it has been accepted.

#### **Contributions for past added years by family pensioner**

- C4.—**(1) This regulation applies where a person dies and—

- (a) if on the date of his death he had ceased to be in pensionable employment he would have become entitled under regulation E4 to payment of retirement benefits; and
- (b) another person (“the pensioner”) is entitled under regulation E26 to a long-term pension in respect of him.

(2) Where this regulation applies the pensioner, or in the case of a child, a person acting on his behalf, may, by giving written notice to the Department within 3 months after the death, make any election which, on the hypothesis stated in paragraph (1)(a), the deceased person could have made under regulation C3.

(3) Subject to paragraph (4), an election under this regulation has effect as if it had been made under regulation C3 by the deceased person.

(4) The additional contributions except to the extent that they are, with the consent of any person entitled to it, met out of a terminal sum, are payable by the pensioner.

#### **Contributions for past added years under earlier provisions**

**C5.**—(1) Paragraphs 1 to 6 of Schedule 5 have effect where immediately before [date of commencement] additional contributions remained to be paid by virtue of regulations 22 to 25 of the 1977 Regulations (elections made before 1st December 1982).

(2) Paragraph 7 of Schedule 5 has effect where immediately before [date of commencement] additional contributions remained to be paid by virtue of regulation 26 of the 1977 Regulations (payments commenced before 1973).

#### **Additional contributions for current period**

**C6.**—(1) Subject to paragraphs (11) to (13), this regulation applies, to a person who—

- (a) before attaining the age of 60 has ceased to be in pensionable employment, otherwise than by virtue of an election under regulation B4; and
- (b) was not then incapacitated; and
- (c) did not then become entitled to payment of retirement benefits; and
- (d) has not become a member of another occupational pension scheme or is not engaged in full-time employment in a capacity described in Part II of Schedule 2.

(2) Subject to paragraphs (3), (4) and (10), a person to whom this regulation applies may elect to pay additional contributions in order to become entitled to count as reckonable service a period (“the period”) beginning on the day after the cessation of the pensionable employment, or where paragraph (4)(a) applies, on the day after the last day of the earlier period.

(3) The period—

- (a) shall end before his 60th birthday; and
- (b) shall not in any case exceed the maximum calculated in accordance with Schedule 3; and
- (c) if he has become employed as a teacher or supervisor in a school or educational service outside the British Islands, shall not exceed 6 years; and
- (d) in any other case, shall not exceed 3 years.

(4) If the person has paid additional contributions under this regulation for an earlier period and—

- (a) he has not since the end of that period been in pensionable employment; or
- (b) he has since been in pensionable employment but for less than 12 months,

the earlier period shall be deducted from the maximum allowed by paragraph (3)(b).

(5) If before the end of the period the person—

- (a) becomes entitled to payment of retirement benefits; or
- (b) becomes a member of another occupational pension scheme; or
- (c) dies,

the period shall be treated as having ended on the day on which the relevant event occurred; and if before the end of the period he fails to pay an additional contribution, or a late payment is not accepted under paragraph (9), the period shall be treated as having ended on the day up to which contributions have been paid.

(6) An additional contribution is payable for each financial year and is a percentage of the notional salary for so much of the period as falls within that year.

(7) For the purposes of paragraph (6)—

- (a) the notional salary is an amount notified by the former employer or, where no such notification has been given, estimated by the Department as being what that person's contributable salary would have been if pensionable employment had not ceased and the person had continued to be employed in the same post and on the same terms; and
- (b) the percentage is  $(A + B)$ , where A is the percentage specified under regulation G4(3) and B is any percentage specified under regulation G4(7) and (8).

(8) The contribution for a financial year shall be paid direct to the Department—

- (a) where the period had not ended during the financial year, within 21 days after the end of the financial year; and
- (b) in any other case, within 42 days after the end of the period or the date of a written notification by the Department that payment is due, whichever is the later.

(9) A late payment of a contribution may for special reasons be accepted by the Department; but if it is accepted the person shall pay interest on the amount of the contribution at 4 per cent per annum, compounded with yearly rests, from the due date of payment to the date of payment.

(10) An election under this regulation shall be made by the person by written notice to the Department, and shall specify the period and shall be given—

- (a) if paragraph (3)(c) applies, within 6 months; and
- (b) in any other case, within 3 months,

after the cessation of his pensionable employment or, if later, the end of a previous period for which he has paid additional contributions under this regulation.

(11) For the purposes only of this regulation a person remains in pensionable employment while he is absent from duty during and in consequence of a trade dispute.

(12) Paragraph (11) applies—

- (a) even if the person was not participating in or financing or otherwise directly interested in the trade dispute; and
- (b) even if his employer was not a party to the trade dispute.

(13) In this regulation “trade dispute” has the meaning given by Article 127 of the Trade Union and Labour Relations (Northern Ireland) Order 1995(12).

#### **Additional contributions for current period: service in a reserve force**

**C7.—(1)** This regulation applies to a person who ceases to be in pensionable employment by virtue of being called out or recalled for permanent service in Her Majesty's armed forces in

pursuance of a call-out notice or call-out order or a recall order made under the provisions of the Reserve Forces Act 1996<sup>(13)</sup>, provided that—

- (a) the person does not apply for payment of any retirement benefits to which he would otherwise be entitled on ceasing to be in such employment; and
- (b) he does not accrue any reckonable service in the Armed Forces Pension Scheme or become a member of any other occupational pension scheme during his period of permanent service.

(2) Subject to paragraphs (10) and (11), a person to whom this regulation applies may elect to pay additional contributions in order to become entitled to count as reckonable service a period (“the period”) beginning on the day after the cessation of the pensionable employment and ending with the date on which he is released from permanent service or discharged.

(3) An additional contribution is payable for each financial year and is 6% of the notional salary for so much of the period as falls within that year.

(4) For the purposes of paragraph (3), the notional salary is the salary that would have been payable if pensionable employment had not ceased and the person had continued to be employed in the same post and on the same terms.

(5) Subject to paragraphs (7) and (8), an election under this regulation shall be made by giving written notice to the Department and shall be given at any time between the cessation of pensionable employment and 6 months after the return to pensionable employment after the end of the period.

(6) An election has effect only if any contribution under this regulation is paid by the person to the Department within three months of the date of a written notification by the Department that payment is due to it; and provided that the person pays all contributions and payments payable by him in respect of the period in accordance with an election or elections made by him under regulation C3 (taken with Schedule 4), regulation C8 (taken with Schedule 6) and regulation C13.

(7) Where an election is made before the end of the period it shall specify the day on which the period begins; and where an election is made after the end of the period it shall specify the period.

(8) Subject to paragraph (9), where the person dies during his service in a reserve force without having made an election under this regulation, he shall be deemed to have made such an election so that the period beginning with and including the day after the cessation of the pensionable employment and ending with the date of his death shall count as reckonable service.

(9) Any contribution due under this regulation at the date of such death shall be deducted from any benefits payable under these Regulations.

(10) Notwithstanding that a person to whom this regulation applies has not made an election under this regulation, he shall be entitled to count the period as reckonable service where during the period his service pay, when aggregated with any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951<sup>(14)</sup>, is less than the remuneration he would have received if he had during the period continued in the pensionable employment in which he was employed immediately before being called into service in a reserve force.

(11) For the purposes of paragraph (10), “service pay” means pay for performing service in a reserve force, and includes marriage, family and other similar allowances.

### **Contributions for family benefits**

**C8.**—(1) Parts I and III of Schedule 6 have effect for enabling men and unmarried women to pay additional contributions (“family benefit contributions”) in order to secure, or to increase, family benefits in respect of reckonable service before 1st April 1972.

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<sup>(13)</sup> 1996 c. 14

<sup>(14)</sup> 1951 c. 65

(2) Parts II and III of Schedule 6 have effect for enabling married women to pay family benefit contributions in respect of reckonable service before 6th April 1988.

### **Right to repayment of balance of contributions**

**C9.**—(1) Subject to paragraphs (2), (3) and (4), this regulation applies where a person has ceased to be in pensionable employment and—

- (a) he is not qualified for retirement benefits; and
- (b) no transfer value has since been paid or become payable in respect of him; and
- (c) he has not since taken any right to a cash equivalent; and
- (d) he did not re-enter pensionable employment within one month after ceasing to be in pensionable employment; and
- (e) he has not elected to pay additional contributions under regulation C6 or C7 for any period which includes the period beginning when he ceased to be in pensionable employment and ending one month later.

(2) This regulation does not apply if—

- (a) the person ceased to be in pensionable employment before 6th April 1980; and
- (b) the salary on which contributions were payable by him under the 1977 Regulations or under previous provisions in any year had exceeded £5,000.

(3) For the purposes of paragraph (1) a woman who ceased to be in pensionable employment wholly or partly because of pregnancy or confinement shall be treated—

- (a) as having remained in such employment while she enjoyed the right to return to work conferred by Articles 111 to 117 of the Employment Rights (Northern Ireland) Order 1996; and
- (b) if she has exercised that right, as not having ceased to be in pensionable employment.

(4) Subject to regulation C12 (application for repayment), where this regulation applies the person is entitled to be repaid the balance of his contributions, calculated in accordance with regulation C10.

(5) The entitlement referred to in paragraph (4) takes effect one month after the person ceased to be in pensionable employment or on attaining the age of compulsory retirement if earlier.

### **Calculation of balance of contributions**

**C10.**—(1) The balance of contributions referred to in regulation C9(4) shall be calculated as at the date of the calculation, or the age of compulsory retirement if earlier (“the calculation date”).

(2) The balance is

$$(A - B) - C,$$

where—

- A is the total of the amounts specified in paragraph (3);
- B is the total of the deductions specified in paragraph (4); and
- C is the amount of the tax chargeable on (A - B) under section 598 of the Income and Corporation Taxes Act 1988(15).

(3) The amounts are those of—

- (a) all contributions paid, up to the date of receipt of the application for repayment, under regulations C2, C3, C6, C7 and C8, except—
    - (i) any treated for the purposes of regulation G2 as employers' contributions; and
    - (ii) any paid in respect of period of employment for which a short service incapacity grant under regulation E17 has been paid; and
  - (b) contributions paid in respect of any comparable service in respect of which the person is entitled to count as reckonable service by virtue of the receipt of a transfer value; and
  - (c) if the person was entitled to count any reckonable service by virtue of the receipt of a transfer value in respect of an employment that was not comparable service, either—
    - (i) any payment by way of repayment of contributions, and interest, that he would otherwise have been entitled to receive under the rules of the superannuation scheme to which he was subject in the employment; or
    - (ii) if that scheme made no provision for the repayment of contributions, the contributions he paid under it in respect of the employment; and
  - (d) interest to the calculation date, at 3 per cent per annum, compounded with yearly rests—
    - (i) on the contributions mentioned in sub-paragraphs (a) and (b), from the first day of the financial year following that in which they were paid; and
    - (ii) where sub-paragraph (c) applies, from the first day of the financial year following that in which the transfer value was paid.
- (4) The deductions are—
- (a) the amount of any previous repayment of contributions;
  - (b) if the Department has made a payment in lieu of contributions, or the person is entitled to equivalent pension benefits, half the amount of the payment in lieu of contributions that was, or as the case may be would otherwise have been, made; and
  - (c) if the Department has paid a contributions equivalent premium, the amount recoverable by it under sections 57 to 59 of the Pensions Act(16).

#### **Repayment of certain contributions paid for family benefits**

**C11.**—(1) This paragraph applies where a member who has made no election under paragraph 3 of Schedule 6—

- (a) becomes entitled under regulation C9 to the repayment of the balance of his contributions; or
  - (b) becomes entitled to payment of retirement benefits, unless on his death family benefits would become payable.
- (2) Subject to regulation C12, where paragraph (1) applies, the member is entitled to be repaid an amount calculated in accordance with paragraphs (3) to (5).
- (3) Where no family benefit would have been payable if the member had died before 1st April 1972, the amount includes the whole of his normal contributions and any additional contributions.
- (4) Where paragraph (3) does not apply, the amount includes—
- (a) half the normal contributions paid in respect of any period during which family benefits would have been payable in the event of his death; and
  - (b) the whole of the normal contributions paid in respect of any other period; and
  - (c) the whole of any additional contributions.

(5) The remainder of the amount consists of interest at 3 per cent per annum, compounded with yearly rests, from and including the first day of the financial year following that in which the contributions were paid to—

- (a) the date of the calculation; or
- (b) the person's compulsory retirement date; or
- (c) the date of his death,

whichever is the earliest.

(6) There shall be deducted from the amount calculated in accordance with paragraphs (3) to (5) the tax chargeable on it under section 598 of the Income and Corporation Taxes Act 1988.

(7) Subject to regulation C12, where a member who has made no election under paragraph 3 of Schedule 6 dies and he was entitled under regulation C9 to be repaid the balance of his contributions or—

- (a) a death grant is payable under regulation E20; and
- (b) no family benefit other than a children's pension is payable,

his personal representatives are entitled to be paid an amount calculated in accordance with paragraphs (3) to (5) but with the interest referred to in paragraph (5) calculated to the date of his death.

### **Application for repayment**

**C12.** A person shall not be entitled to a payment under regulation C9 or C11 unless he—

- (a) applies in writing to the Department for payment; and
- (b) provides such relevant information as the Department may reasonably require.

### **Return of repaid contributions**

**C13.—(1)** A person to whom contributions were repaid before 1st June 1973—

- (a) who is in pensionable employment; or
- (b) who is in comparable service and in respect of whom no transfer value has been paid since the end of his last pensionable employment,

may at any time, by giving written notice to the Department, elect to return the contributions, with interest, to it.

(2) Except where paragraph (3) applies, the return of contributions shall be made by a single payment, which shall be made within thirty working days of a notice given under paragraph (1).

(3) Where the amount of the contributions, together with the interest payable exceeds £500, the person may elect to make the return of contributions—

- (a) if he is in full-time pensionable employment, by instalments under paragraph (5); or
- (b) if he is in part-time pensionable employment or in comparable service, by instalments under paragraph (7).

(4) Interest is payable at the rate of 3.5 per cent per annum from the date on which the contributions were repaid to the date on which their return is completed, and—

- (a) where the return of contributions is made by a single payment, is payable on the full amount of the contributions and is compounded with yearly rests; and
- (b) where the return of contributions is made by instalments, is payable on the balance for the time being outstanding and is compounded with yearly rests on 31st March.

(5) Instalments payable under this paragraph are, subject to paragraph (6), payable by deduction from the person's salary for a number of whole years, not exceeding 5 and ending before his 61st birthday, to be specified in the notice of the election.

(6) Where the total of—

- (a) the instalments payable by a person under paragraph (5) in any year; and
- (b) the other amounts to be deducted in that year under regulation C15,

would otherwise exceed 15 per cent of his contributable salary for that year, the instalments are payable for the smallest number of whole years that will secure that that total does not exceed 15 per cent of his annual contributable salary.

(7) Instalments under this paragraph are, subject to paragraph (8), payable—

- (a) at equal intervals of not more than six months; and
- (b) for a period,

determined by the Department after consulting the person making the election.

(8) Instalments are of equal amounts unless in any year the payment of an instalment of an amount equal to that paid in previous years would exceed the limit specified in paragraph (9) and in that event the instalments (and the corresponding period over which they are payable) shall be recalculated so that they do not exceed that limit.

(9) The annual amount of instalments paid under paragraph (7) shall be such that

**A + B**

does not exceed 15% of the annual rate of the person's contributable salary in the year where—

A is the annual amount of the instalments; and

B is the annual amount of other contributions paid under this Part (except any treated for the purposes of regulation G2 as employers' contributions) or towards the pension of a pension otherwise than under these Regulations.

(10) Where immediately before 2nd November 1998 instalments remained to be paid by virtue of regulation 16B(7) of the 1977 Regulations<sup>(17)</sup> (certain elections made before 27th March 1987), the person shall be treated as having elected to pay instalments under paragraph (5), but payment shall be completed no later than—

- (a) the fifth anniversary of the first payment; or
- (b) if earlier, his 60th birthday.

(11) For the purposes of this regulation, a person shall be treated as being in pensionable employment if he is paying additional contributions under regulation C6 or C7 and such person may, except where paragraph (3) applies, elect to make the return by instalments under paragraph (7).

### **Uncompleted return by instalments of repaid contributions**

**C14.**—(1) This regulation applies where instalments are payable by a person under regulation C13(5) or (7).

(2) If before all the instalments have been paid—

- (a) the person becomes entitled to payment of retirement benefits; or
- (b) a death grant becomes payable in respect of him,

the balance outstanding, adjusted for early payment, shall be deducted from the appropriate terminal sum and the return of the contributions shall be treated as having been completed.

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(17) As inserted by S.R. 1987 No. 76 regulation 18

(3) This paragraph applies where the instalments are payable under regulation C13(5) and before they have all been paid the person—

- (a) ceases to be in full-time pensionable employment; and
- (b) does not become entitled to payment of retirement benefits; and
- (c) continues in part-time pensionable employment or in comparable service.

(4) Where paragraph (3) applies—

- (a) the person may elect to pay the balance outstanding by instalments under regulation C13(7); and
- (b) if he does not so elect, he shall make a single payment of the balance outstanding, adjusted for early payment.

(5) This paragraph applies where before all the instalments have been paid—

- (a) the person ceases to be in pensionable employment or in comparable service; and
- (b) neither paragraph (2) nor paragraph (3) applies.

(6) Where paragraph (5) applies—

- (a) the person may, if he elects to pay additional contributions for a current period under regulation C6 or C7, elect to pay the balance outstanding by instalments under regulation C13(7) (but payable at the same time as the additional contributions); and
- (b) if he does not so elect, he shall make a single payment of the balance outstanding, adjusted for early payment.

(7) Where paragraph (3) or (5) applies and the person has not within 3 months after the end of the relevant employment—

- (a) made a payment under paragraph (4)(b) or (6)(b); or
- (b) made any election he could have made under paragraph (4)(a) or (6)(a),

the amount of the instalments already paid shall be repaid to him.

(8) Where—

- (a) a person who has elected as mentioned in regulation C13(3)(b) is in part-time pensionable employment or in comparable service and an instalment has not been paid by the due date; or
- (b) a person has made an election under paragraph (4)(a) and an instalment has not been paid by the due date; or
- (c) a person has made an election under paragraph (6)(a) and an instalment is not paid by 21st April in the financial year following that in which it fell due,

then, unless within 3 months he makes a single payment of the balance outstanding, adjusted for early payment, the amount of the instalments already paid shall be repaid to him.

### **Deduction, payment and recovery of contributions**

**C15.—**(1) The employer of a person in pensionable employment shall deduct from the employee's salary each month—

- (a) the contributions payable under regulation C2(1);
- (b) any additional contributions payable in accordance with Part I of Schedule 4 as a result of an election under regulation C3;
- (c) any additional contributions payable by virtue of regulation C5 or C8; and
- (d) any instalments payable under regulation C13(5),

and any amount not so deducted in any month shall be deducted from the employee's salary no later than 30th April next following the end of the financial year in which it ought to have been deducted.

(2) If and so far as deductions are not made under paragraph (1), any sum remaining due shall be paid by the employee to the Department on receipt of a written demand specifying that sum.

(3) If a sum is not paid within 6 weeks after the date of the written demand, made in accordance with paragraph (2), interest shall be payable on it at 4 per cent per annum, compounded with yearly rests, from the expiry of the 6 weeks to the date of payment.

(4) Without prejudice to any other means of recovery, any sum due to the Department under paragraph (2) or (3) may be recovered by deducting it from any benefits payable under Part E.

(5) Amounts due from a person under this Part which are not deductible under paragraph (1) shall be paid by him to the Department.

(6) If any amount to which paragraph (5) applies, except one due under regulation C6, C7, C13 or C14, is not paid within 6 months after the end of the period to which it relates, but remains payable, interest shall be payable on it at 4 per cent per annum, compounded with yearly rests, from the expiry of the 6 months to the date of payment.

## Part D

### Reckonable Service

#### Reckonable service generally

**D1.**—(1) Subject to regulation D2, a person is entitled to count as reckonable service—

- (a) subject to paragraph (2), any period spent by him in pensionable employment;
- (b) any period counting as reckonable service by virtue of regulations D3 and D4 or of regulation F4(8) (receipt of transfer value);
- (c) any period which does not count by virtue of sub-paragraph (a) or (b) but which immediately before 2nd November 1998 counted as reckonable service under regulation 3(1) of the 1977 Regulations; and
- (d) any period which immediately before 2nd November 1998, under regulations 4 and 67(1) (a) of the 1977 Regulations (war service), was capable of counting as reckonable service for the purpose of calculating benefits under Part III of those Regulations.

(2) Where during a financial year a person has spent one or more periods in part-time pensionable employment each such period counts as—

$$365 \times \frac{A}{B} \text{ days of reckonable service,}$$

where—

A is the person's contributable salary for the period; and

B is what his contributable salary for the whole of the financial year would have been if the employment had been full-time and had continued throughout the year.

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

- (a) a period of part-time employment ends, and another such period begins, when any change occurs in the rate of the person's contributable salary;
- (b) no account shall be taken of any reduction in contributable salary during a period of sick leave or maternity leave;

- (c) if a half or any greater fraction of a day results it shall be taken as one day, and any smaller fraction resulting shall be left out; and
  - (d) if the calculation would result in more than 365 days' counting as reckonable service in respect of the financial year, the excess shall not so count.
- (4) In calculating the length of reckonable service—
- (a) no account shall be taken of a leap year day (29th February) except as provided in subparagraph (b); but
  - (b) where total reckonable service which includes part of a year ends in a leap year on or after the leap year day that day shall be included in the number of days of reckonable service.

**Exclusion from reckonable service**

**D2.** The following shall not count as reckonable service—

- (a) any contributions refund period; and
- (b) any period in respect of which a transfer value has been paid under regulation F1 or a cash equivalent has been paid.

**Past period for which additional contributions have been paid**

**D3.—**(1) A person—

- (a) who has paid additional contributions for a past period in accordance with Part II of Schedule 4; or
- (b) in respect of whom payment of additional contributions for a past period in accordance with Part II of Schedule 4 has been made,

is entitled to count the past period as reckonable service.

(2) A person who—

- (a) has paid any additional contributions for a past period in accordance with Part I of Schedule 4; or
- (b) has continued to pay additional contributions for a past period in accordance with Schedule 5,

is entitled to count as reckonable service a period calculated in accordance with Schedule 7.

**Current period for which additional contributions have been paid**

**D4.—**(1) A person who has paid additional contributions for a current period in accordance with regulation C6 is entitled—

- (a) if he was in full-time pensionable employment immediately before the start of the period, to count as reckonable service the period in respect of which they were paid; or
- (b) if he was then in part-time pensionable employment, to count as reckonable service the proportion of the period that would have counted under regulation D1 if he had continued in that employment.

(2) A person who has paid additional contributions for a current period in accordance with regulation C7 is entitled to count as reckonable service the period specified in regulation C7(2).

## Part E

### Benefits

#### **Overriding provision as to guaranteed minimum pensions**

**E1.**—(1) This regulation applies where a person's pensionable employment is contracted-out employment.

(2) Where this regulation applies it overrides anything in these Regulations that is inconsistent with it, except regulation E14 (abatements on re-employment) and regulation E18 (deferment etc).

(3) Where this regulation applies and the person in relation to employment up to 6th April 1997, has a guaranteed minimum in relation to benefits under these Regulations—

- (a) unless on the cessation of the pensionable employment he is entitled to a retirement pension at a higher rate, he is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to his guaranteed minimum;
- (b) if he attains state pensionable age while in pensionable employment, continues in the same employment for a further period of 5 years and does not then cease to hold it, he is (unless he consents to a postponement of the entitlement) entitled from the end of that period to so much of his retirement pension as equals his guaranteed minimum;
- (c) in the case of a man who dies at any time and leaves a widow, unless she is entitled to a widow's pension at a higher rate she is, during any such period as is mentioned in section 13 of the Pensions Act(18), entitled to a pension at a weekly rate equal to half his guaranteed minimum; and
- (d) in the case of a woman who dies at any time leaving a widower who is not entitled to a widower's pension at a higher rate, in circumstances prescribed under section 13(6) of the Pensions Act, the widower is entitled to a pension payable for the period so prescribed.

(4) The weekly rate of a widower's pension payable under paragraph (3)(d) is half of that part of the deceased's guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and ending with the tax year 1996-7.

(5) In paragraph (4) "earnings factors" means the earnings factors referred to in section 10(2) of the Pensions Act.

#### **Nature of retirement benefits**

**E2.** Retirement benefits consist of—

- (a) a retirement pension; and
- (b) a retirement lump sum,

calculated in accordance with this Part.

#### **Qualification for retirement benefits**

**E3.**—(1) A person is qualified for retirement benefits if—

- (a) immediately before 6th April 1988 he would but for his age have been entitled under regulation 48 of the 1977 Regulations to payment of an annual allowance and an additional allowance; or
- (b) an appropriate qualifying period has been completed.

(2) A qualifying period, which may be discontinuous, comprises every period of a kind described in Schedule 8 excluding any contributions refund period.

(3) If the person—

- (a) was in pensionable employment, or paying contributions for a current period under regulation 27 of the 1977 Regulations on 6th April 1988; or
- (b) entered pensionable employment after 6th April 1988 without having been in such employment before that date,

any qualifying period of 2 years is an appropriate one.

(4) If paragraph (3) does not apply but the person was in pensionable employment before 6th April 1988 and subsequently entered pensionable employment again after that date, any qualifying period of—

- (a) two years beginning on or after 6th April 1988; or
- (b) such period beginning on or after 6th April 1988 as will, when taken with every period before 6th April 1988 of a kind described in Schedule 4 to the 1977 Regulations, amount to 5 years whichever is the shorter, is an appropriate one.

(5) For the purposes of paragraph (4) any period of the kind described in paragraph 3 of Schedule 8 (transfer value accepted) shall be treated as having begun after 5th April 1988.

(6) Notwithstanding that an appropriate qualifying period has not been completed, a person is qualified for retirement benefits—

- (a) subject to paragraph (7), if he has a guaranteed minimum in relation to benefits under these Regulations; or
- (b) if a transfer value was paid in respect of him by the Department to the superannuation scheme of the Commission of the European Communities and one has since been received by the Department from that scheme.

(7) If a contributions equivalent premium is paid by the Department, paragraph (6)(a) shall be treated as not having applied.

#### **Entitlement to payment of retirement benefits**

**E4.**—(1) Subject to regulation E33(2) (payment of benefits), a person qualified for retirement benefits becomes entitled to payment of them in any of the Cases described in this regulation.

(2) In Case A (normal age retirement) the person—

- (a) has attained the age of 60;
- (b) has ceased to be in pensionable employment; and
- (c) is not within Case B, C, D, E or F.

(3) In Case B (female early age retirement) the person—

- (a) has not attained the age of 60;
- (b) has attained the age of 55;
- (c) is female;
- (d) first entered pensionable employment prior to 1st April 1972;
- (e) has ceased to be in pensionable employment;
- (f) has been in pensionable employment or employed in external service as defined in regulation 5 of the 1972 Regulations as originally made or qualifying service as defined in regulation 6 of the 1972 Regulations as originally made for a total of not less than 30

years of which not less than 10 years was reckonable service or employment in external service as so defined; and

(g) is not within Case F.

(4) In Case C (infirmity retirement) the person—

(a) has ceased after 31st March 1972 and before attaining the age of 60 to be in pensionable employment;

(b) is incapacitated and became so before attaining the age of 60; and

(c) is not within Case F;

and where the pensionable employment ceased on or after 2nd November 1998, the Department has not notified him in writing that it has exercised, or is considering the exercise of its powers under regulation 9 of the Teachers' (Eligibility) Regulations (Northern Ireland) 1997(19) to prohibit or restrict his employment or further employment on grounds of his misconduct;

(5) In Case D (infirmity retirement at normal retirement age where incapacitated before that age) the person—

(a) has attained the age of 60;

(b) has ceased after 31st March 1972 (and after attaining that age) to be in pensionable employment, but would have ceased to be in such employment before attaining that age had not the employment continued beyond the attainment of that age due to a period of paid sick leave; and

(c) has become incapacitated before attaining that age; and

(d) is not within case F,

and where the pensionable employment ceased on or after 2nd November 1998, the Department has not notified him in writing that it has exercised, or is considering the exercise of its powers under regulation 9 of the Teachers' (Eligibility) Regulations (Northern Ireland) 1997 to prohibit or restrict his employment or further employment on grounds of his misconduct.

(6) In Case E the person—

(a) has attained the age of compulsory retirement; and

(b) is in an employment which would be pensionable employment but for regulation B3(1)(a).

(7) In Case F (premature retirement) the person—

(a) has not attained the age of 60;

(b) has attained the age of 50;

(c) has ceased after attaining the age of 50 to be—

(i) in pensionable employment;

(ii) in excluded employment; or

(iii) in employment which would be pensionable but for the fact that the person has not made an election under B1(4); and

(d) is not within Case B or C; and

his employer has notified the Department in writing that his pensionable employment was terminated by reason of his redundancy or in the interests of the efficient discharge of the employer's functions.

(8) Where the employer has notified the Department in Case F that employment is to be terminated in the interests of the efficient discharge of the employer's functions the Department shall approve the reason for such termination.

- (9) In Cases A, B and E the entitlement takes effect as soon as the person falls within the Case.
- (10) In Cases C and D the entitlement takes effect—
- (a) where immediately before the person became incapacitated he was in employment of the type described in paragraph (7)(c)(ii) or (iii), on the day after the last day of his employment; and
  - (b) as soon as the person falls within the Case or would have fallen within the Case had the Department not notified him that it had exercised, or was considering the exercise of its powers, under regulation 9 of the Teachers' (Eligibility) Regulations (Northern Ireland) 1997; or
  - (c) if later, 6 months before the date of the last of any medical reports considered by the Department in determining under regulation H6 that the person has become incapacitated.
- (11) In Case F the entitlement takes effect as from the day after the end of the employment.
- (12) In no Case shall a person be regarded as having ceased to be in pensionable employment until not less than one day has passed without that person being in pensionable employment.

#### **Amount of retirement pension**

**E5.**—(1) Subject to paragraphs (2) to (4) and regulations E7 to E10 and regulation H1, the annual rate of a person's retirement pension is 1/80th of his average salary multiplied by his effective reckonable service.

(2) If—

- (a) the person is entitled to count a period as reckonable service by virtue of regulation D3 (past period purchased by additional contributions); and
- (b) by reason of regulation E32(4) part of that period does not count in calculating his retirement lump sum,

the annual rate calculated in accordance with paragraph (1) is, in respect of each year comprised in that part, increased by 1/350th of his average salary.

(3) If—

- (a) the person has a guaranteed minimum in relation to employment up to 6th April 1997; and
- (b) **A exceeds B,**

where—

A is the annual equivalent of his guaranteed minimum pension together with that of any equivalent pension benefits; and

B is the annual rate calculated in accordance with paragraphs (1) and (2),

the annual rate of his retirement pension is A.

(4) If a contributions equivalent premium has been paid in respect of the person and has not been refunded (and his entitlement to a guaranteed minimum pension is therefore extinguished) the annual rate of his retirement pension is reduced by the annual equivalent of the guaranteed minimum pension to which he would otherwise have been entitled.

#### **Amount of retirement lump sum**

**E6.**—(1) Subject to paragraph (2) and regulations E7 and E8, the amount of a person's retirement lump sum is

$$A \times (B + C)$$

where—

A is 3/80ths of his average salary;

B is his effective reckonable service (except any falling within C); and

C is any period which he is entitled to count as reckonable service by virtue of regulation D3.

(2) If the person's effective reckonable service is restricted by regulation E32(2), the part of his retirement lump sum that is attributable to service before he attained the age of 60 shall not exceed his average salary multiplied by 1½.

### **Limitation of retirement benefits where salary reduced**

**E7.**—(1) Paragraphs (2) to (5) apply to a person who has made an election under regulation C1(6) (reduced salary treated as having continued at previous rate) and whose average salary falls to be calculated by reference to the notional rate.

(2) The annual rate of the person's retirement pension shall not exceed the fraction of the appropriate sum ascertained, by reference to the relevant age, from the following Table:

TABLE

<i>Relevant age</i>	<i>Fraction</i>
Under 50	12
50	25
51	310
52	15
53	110
54	114

(3) Where the person has been in pensionable employment for less than 20 years, his retirement lump sum shall not exceed 3/80ths of the appropriate sum multiplied by the total of his reckonable service and the period ascertained, by reference to the number of complete years he has been in pensionable employment, from the following Table:

TABLE

<i>Years in pensionable employment</i>	<i>Period of years</i>
19	17
18	15
17	13
16	11
15	9
14	7
13	5
12	4
11	3

<i>Years in pensionable employment</i>	<i>Period of years</i>
10	2
9	1
Fewer than 9	0

(4) Where the person has been in pensionable employment for 20 years or more his retirement lump sum shall not exceed the appropriate sum multiplied by 1½.

(5) The appropriate sum referred to in paragraph (4) is the greater of—

- (a) the person's contributable salary for the best one of his last 5 years in pensionable employment; and
- (b) 1/3rd of his aggregate contributable salary for his best 3 consecutive years in pensionable employment within the 10 years ending with its cessation,

and for the purposes of paragraph (2) the relevant age is his age when he first entered pensionable employment, unless he was not continuously in pensionable employment in which case it is the figure obtained by subtracting the number of years in pensionable employment from 60.

#### **Enhancement of retirement benefits in case of incapacity**

**E8.**—(1) This regulation applies to a person who has become entitled to payment of retirement benefits by virtue of regulation E4(4) or (5) by reason of his having become incapacitated while still employed in pensionable employment, but only if—

- (a) he had completed periods of the kinds described in Schedule 8 totalling at least 5 years, excluding any contributions refund period; and
- (b) the application for payment required by regulation E33(2) is made within 6 months after the end of his pensionable employment.

(2) Subject to regulation E32(2) (limitation of effective reckonable service to 45 years, etc) for the purpose of calculating his retirement benefits the effective reckonable service of a person to whom this regulation applies shall be treated as having been increased by the appropriate period.

(3) If the person's relevant service amounts to less than 10 years, the appropriate period is the shorter of—

- (a) the length of his relevant service; and
- (b) the period beginning when his pensionable employment ended and ending immediately before his 65th birthday.

(4) If his relevant service amounts to 10 years or more, the appropriate period is the longer of period A and period B.

(5) In paragraph (4)—

- (a) period A is the shortest of—
  - (i) the period by which his relevant service falls short of 40 years;
  - (ii) the period beginning when his pensionable employment ended and ending immediately before his 60th birthday; and
  - (iii) 6 years and 243 days.
- (b) period B is so much of the period beginning when his pensionable employment ended and ending immediately before his 65th birthday as would not cause his effective reckonable service to be increased to more than 20 years.

(6) A person's relevant service is so much of his effective reckonable service as does not consist of periods that count by virtue of regulation D3 (past period purchased by additional contributions) or by virtue of the application to him of regulation 4 of the 1977 Regulations.

(7) For the purposes of this regulation a person shall be treated as having been in pensionable employment during any period for which he was paying additional contributions under regulation C6 or C7.

### **Avoidance of duplicate pensions**

**E9.**—(1) This regulation applies where a person's effective reckonable service includes a period that also counts towards another pension payable directly or indirectly out of moneys provided by or under any statutory provision or raised by a rate ("the double period").

(2) Subject to paragraphs (3) and (4), where this regulation applies the person's retirement benefits are reduced by so much as is necessary to secure that

**A is reduced by B,**

where—

A is the actuarial value of the retirement benefits in respect of the double period; and

B is the actuarial value of the other pension in respect of that period.

(3) A shall not be reduced to less than the actuarial value of

**(C + D),**

where—

C is the contributions paid by the person in respect of the double period, including any paid under regulation C6 or C7; and

D is interest on those contributions at 3 per cent per annum, compounded with yearly rests, beginning with and including the first day of the financial year following that in which they were paid to the date on which he became entitled to payment of the retirement pension.

(4) A retirement pension shall not be reduced so that so much of it as is attributable to the double period falls below the rate of any equivalent pension benefits attributable to that period.

(5) For the purposes of this regulation, "another pension" includes any sum payable, whether as a continuing allowance or as a lump sum, by way of pension, superannuation allowance, compensation for loss or abolition of office or otherwise in respect of retirement.

### **National Insurance modification of pensions**

**E10.** Part I of Schedule 9 has effect for modifying the retirement pensions of persons who were in pensionable employment before 1st April 1980.

### **Allocation of part of retirement pension**

**E11.**—(1) A person who has become qualified for retirement benefits may, unless he becomes entitled to payment of them by virtue of regulation E4(4) or (5) (incapacity), allocate part of his retirement pension to the provision of an alternative benefit.

(2) The alternative benefit may be either—

(a) an annuity for life, commencing on the death of the person making the allocation ("the allocator"), for a surviving spouse or dependant; or

- (b) an annuity payable to the allocator while the allocator and a spouse are both alive, and if the spouse is the survivor a subsequent annuity for life, at twice the rate of the first annuity, for the spouse.
- (3) The rates of the annuities mentioned in paragraph (2) shall be determined in accordance with tables prepared by the Government Actuary.
- (4) An allocation shall be made by delivering a declaration to the Department, and in paragraph (2) “spouse” refers to status at the time of its delivery.
- (5) Further provisions as to allocations under this regulation are contained in Schedule 10.

### **Duration of retirement pension**

**E12.** Subject to regulations E13 to E15 and E18, a retirement pension continues to be payable, at the rate at which it initially became payable in accordance with regulation E5, until the death of the person entitled to it.

### **Pensioner ceasing to be incapacitated**

**E13.**—(1) This regulation applies where a person who became entitled to payment of a teacher’s pension by virtue of regulation E4(4) ceases to be incapacitated.

(2) On his ceasing to be incapacitated the pension ceases to be payable, but any equivalent pension benefits continue to be payable.

(3) Subject to paragraph (4) and to regulation E33(2) (application for payment), the pension becomes payable again—

- (a) from his 60th birthday; or
- (b) if earlier, from the start of any renewed incapacity.

(4) Paragraph (3) shall not apply if a person has been in pensionable employment at any time after he first became entitled to payment of the pension.

(5) If the pension becomes payable again under paragraph (3)(a) it shall be treated for the purposes of regulation E14 as one to the payment of which he has become entitled by virtue of regulation E4(2).

### **Abatement of retirement pension during further employment**

**E14.**—(1) This regulation applies while a person who has become entitled to payment of a teacher’s pension is employed—

- (a) in pensionable employment, comparable service, or in employment which would have been pensionable employment but for—
  - (i) his having made an election under regulation B4;
  - (ii) his having attained the age of compulsory retirement; or
  - (iii) regulation B3(3);
- (b) in part-time employment in a capacity described in Part I of Schedule 2.

(2) If the person is concurrently both in employment falling within paragraph (1)(a) and in employment falling within paragraph (1)(b) this regulation applies only in respect of the former.

(3) Where this regulation applies the annual rate of the pension is reduced—

- (a) if A equals or exceeds

$$(C + D - E),$$

, to zero; and

(b) in any other case, by the amount (if any) which is necessary to secure that

$(A + B)$

does not exceed

$(C + D - E)$ ,

where—

A is the initial annual rate of the person's salary in the employment;

B is the reduced annual rate of the pension as increased under the Pensions (Increase) Act (Northern Ireland) 1971<sup>(20)</sup>;

C is, or where his previous pensionable employment was part-time is the full-time equivalent of, the highest annual rate of contributable salary that was payable to him during the 3 years ending immediately before he became entitled to payment of the pension, or, if applicable, the highest annual rate of contributable salary that was payable to him during the 3 years ending immediately before he ceased to be employed in any pensionable employment entered into by him after he became entitled to payment of the pension, whichever is the greater;

D is the amount (if any) by which, immediately before the first day of the employment, C would have been increased if it had been the annual rate of an official pension within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971, beginning, and first qualifying for increases under that Act, on the same date as the pension; and

E is any part of the pension allocated under regulation E11.

### **Retirement benefits on cessation of further employment**

**E15.**—(1) This regulation applies to a person who—

- (a) became entitled to payment of a teacher's pension ("the first pension");
- (b) was subsequently in pensionable employment ("the further employment"); and
- (c) has ceased to be in the further employment.

(2) Subject to paragraph (3), if the first pension is not enhanced under regulation E8 (enhancement of retirement benefits in cases of incapacity) the person—

- (a) ceases to be entitled to payment of the first pension; and
- (b) becomes entitled to payment of retirement benefits ("combined benefits") calculated, subject to paragraph (8), by reference to the total of his reckonable service in the further employment and the reckonable service taken into account in calculating the first pension.

(3) If the average salary by reference to which combined benefits would fall to be calculated is less than that by reference to which the first pension was calculated, he—

- (a) remains entitled to the first pension; and

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(20) 1971 c. 35 (N.I.). Part 1 of the Act has been amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)); Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)); Article 74(2) of, and Schedule 6 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and Article 2 of the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264)). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) which have effect as if they were contained in Part V of that Act. Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)); Article 10(3) Part I of the Act has also been amended by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13))

- (b) subject to paragraph (7), becomes entitled to payment of retirement benefits calculated by reference to his reckonable service in the further employment.
- (4) Subject to paragraph (7), if the first pension was enhanced under regulation E8 he becomes entitled to payment of the first pension and of additional retirement benefits in respect of the further employment.
- (5) The additional retirement benefits shall be calculated—
- (a) in respect of pensionable employment before attaining the age of 60, as if regulation E8 had applied and the further employment had begun when he became entitled to payment of the first pension; and
- (b) in respect of other pensionable employment, in accordance with regulations E5 and E6, but the additional retirement lump sum is subject to reduction under paragraph (8).
- (6) If in the application of regulation E8 to the calculation of the first pension the appropriate period was Period B (as defined in regulation E8(5)(b)), paragraph (5)(a) applies with the substitution for “60” of “65”.
- (7) If he ceased to be in the further employment before attaining the age of 60 and regulation E4(4) (incapacity) or regulation E4(7) (premature retirement) did not apply, he does not become entitled to payment of retirement benefits under paragraph (3)(b) or (4) until he attains that age.
- (8) A retirement lump sum payable under paragraph (2)(b), and an additional retirement lump sum payable under paragraph (4), is reduced by the amount of the retirement lump sum to which the person became entitled when he became entitled to payment of the first pension, of any lump sum to which he had previously become entitled under this regulation, and of any short service incapacity grant paid to him under regulation E17.

### **Short service annuity**

**E16.**—(1) A person who—

- (a) has not been in pensionable employment at any time after 5th April 1980; and
- (b) is not qualified for retirement benefits; and
- (c) would but for regulation 42(2) of the 1977 Regulations have been entitled to be repaid the balance of his contributions,

is entitled to be paid, from his 60th birthday, an annuity for life.

(2) The rate of the annuity is the actuarial equivalent of the balance of his contributions calculated in accordance with regulation C10 as at his 60th birthday.

### **Short service incapacity grant**

**E17.**—(1) A person who—

- (a) has been in pensionable employment for at least one year; and
- (b) has become incapacitated; and
- (c) had not attained the age of compulsory retirement when he became incapacitated; and
- (d) is not entitled to payment of retirement benefits the aggregate value of which exceeds the relevant amount,

is entitled, if he applies for payment within 6 months after the end of his pensionable employment, to an incapacity grant.

(2) The aggregate value of retirement benefits is the total of the retirement lump sum and the actuarial equivalent of the retirement pension.

(3) In this regulation, the relevant amount is

$$\frac{A \times B}{12}$$

where—

- A is his average salary; and
- B is the length of his reckonable service.

(4) The amount of the incapacity grant is the difference between the relevant amount and the aggregate value of any retirement benefits to which the person is entitled.

(5) The incapacity grant shall not be paid before the end of the person's pensionable employment.

### **Deferment, etc, of benefits**

**E18.**—(1) This regulation applies where a person is convicted of—

- (a) an offence of treason; or
- (b) one or more offences under the Official Secrets Acts 1911 to 1989<sup>(21)</sup> for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years; or
- (c) an offence in connection with pensionable employment which is certified by a Minister of the Crown either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service,

and any benefit under regulations E1 to E17 becomes payable to him after the offence was committed.

(2) Subject to paragraph (3), the Department may—

- (a) defer or as the case may be suspend payment of the benefit for so long; or
- (b) reduce its amount or rate by so much,

as it may determine.

(3) If—

- (a) the person has a guaranteed minimum in relation to benefits under these Regulations; and
- (b) the case does not fall within paragraph (1)(a) or (b),

a determination under paragraph (2) shall not deprive him of his guaranteed minimum pension after he attains state pensionable age.

### **Commutation: exceptional circumstances of ill health**

**E19.**—(1) Where at the time when a person first becomes entitled to a retirement pension by virtue of regulation E4(4) or (5) there are exceptional circumstances of serious ill health affecting that person the Department may discharge its liability in respect of so much of that pension as exceeds the person's guaranteed minimum by payment of a lump sum calculated in accordance with paragraph (2).

(2) The lump sum is an amount equal to five times the amount by which the annual rate of the retirement pension which would otherwise be payable to the person exceeds the amount of his guaranteed minimum.

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(21) 1911 c. 28; 1920 c. 75; 1939 c. 121 and 1989 c. 6

## Death grants

**E20.**—(1) Subject to paragraph (6), if at the time of his death a person—

- (a) was in pensionable employment; or
- (b) was paying additional contributions under regulation C6 and C7; or
- (c) had, not more than 12 months earlier, ceased to be in pensionable employment while incapacitated,

a death grant shall be paid.

(2) The amount of a death grant under paragraph (1) shall be twice his average salary less the amount of any retirement lump sum or short service incapacity grant previously paid to him.

(3) Subject to paragraph (6), if a person who has ceased after 31st March 1972 to be in pensionable employment dies without having become entitled to payment of retirement benefits and—

- (a) the qualifying condition referred to in paragraph (4) is satisfied; and
- (b) no death grant could be paid under paragraph (1),

a death grant shall be paid under this paragraph.

(4) The qualifying condition—

- (a) if he ceased to be in pensionable employment before 2nd November 1998, is that he was entitled to count at least 2 years' reckonable service; and
- (b) in any other case, is that he was so entitled and was qualified for retirement benefits,

but where sub-paragraph (a) applies it shall be assumed for the purpose of calculating the death grant that he was qualified for retirement benefits.

(5) The amount of a death grant under paragraph (3) is the amount that would have become payable by way of retirement lump sum if he had become entitled under regulation E4(2) to payment of retirement benefits, less the amount of any retirement lump sum or short service incapacity grant previously paid to him.

(6) If a person who has at any time been in pensionable employment dies and—

- (a) no death grant could be paid under paragraph (1) or (3); or
- (b) the amount of such a death grant would be smaller and no pension becomes payable under regulation E26 to a surviving spouse or a nominated beneficiary,

a death grant equal to the balance of his contributions, calculated in accordance with regulation C10 as at the date of his death, shall be paid.

(7) Where any death grant is paid under this regulation it shall be paid to the individual nominated by the deceased to receive the grant or, in the absence of such a nomination—

- (a) if the deceased is survived by one widow or by a widower, to that widow or widower;
- (b) if there are two or more widows to the widows in equal shares; or
- (c) if there is no widow or widower, to the personal representatives.

(8) Any nomination for the purposes of paragraph (7) shall be made by giving written notice to the Department.

## Supplementary death grants

**E21.**—(1) Subject to paragraph (5), this regulation applies where a person dies who—

- (a) has become entitled to payment of retirement benefits; and
- (b) is not in pensionable employment.

(2) If—

- (a) at least 10 years' reckonable service was taken into account in calculating his retirement benefits; and
  - (b) the total of the amounts paid in respect of them is less than his average salary,
- a supplementary death grant equal to that deficiency shall be paid.

(3) If—

- (a) less than 10 years' reckonable service was taken into account in calculating his retirement benefits; and
- (b) the amount paid in respect of his pension is less than 5 times the annual rate at which it was payable when he died,

a supplementary death grant equal to that deficiency shall be paid.

(4) For the purposes of this regulation—

- (a) any amount by which a pension was reduced under regulation E9 (avoidance of duplicate pensions) or E14 (abatements of pension during further employment), and any part of a pension allocated under regulation E11 (allocation of part of retirement pension), shall be treated as having been paid; and
- (b) a retirement lump sum shall be treated as having been paid without any deduction under these Regulations.

(5) This regulation does not apply if the person's last employment was of a kind described in Schedule 4 to the 1977 Regulations and, by virtue of regulation E3(1)(b), formed part of the qualifying period for the purposes of regulation E3.

(6) Where any supplementary death grant is paid under this regulation, it shall be paid to the individual nominated by the deceased to receive the grant or in the absence of such nomination,—

- (a) if the deceased is survived by one widow or by a widower, to the widow or widower;
- (b) if there are two or more widows, to the widows in equal shares; or
- (c) if there is no widow or widower, to the personal representatives.

(7) Any nomination for the purposes of paragraph (6) shall be made by giving written notice to the Department.

### **Family benefits generally**

**E22.**—(1) Pensions are payable in accordance with regulations E24 to E30 to widows, widowers, children and nominated beneficiaries of persons who die in, or after having been in, pensionable employment.

(2) References in those regulations to a surviving spouse are references to a widow or widower; but

- (a) in the case of a person who has not been in pensionable employment, or paying additional contributions for a current period under regulation C6 or C7 at any time after 5th April 1978, such references, and references to a widow or to a widower, do not include references to a man or woman married by that person after his last day in pensionable employment or, as the case may be, the end of the period for which any such contributions were paid;
- (b) subject to paragraph (3), in the case of a woman who has not been in pensionable employment or paying additional contributions for a current period under regulation C6 or C7 at any time after 5th April 1988, such references and references to a widower do not include references to a man married by that woman after her last day of pensionable employment, or as the case may be, the end of the period for which such contributions were paid.

(3) Where a woman who nominated a person under regulation E23 subsequently marries, paragraph (2)(b) shall have effect with the substitution of “1978” for “1988”.

(4) Where those regulations provide for a pension to be payable to a widow and there are two or more widows, the widows are jointly entitled to the pension.

(5) References in those regulations to a person’s child are to a person who is—

- (a) his legitimate, adopted or illegitimate child; or
- (b) accepted by him as a member of the family and wholly or mainly dependent on him,

and who is a child within the meaning given in paragraphs (6) to (8).

(6) Subject to paragraphs (7), (8), and (10) for the purposes of regulations E23 to E30 a person is a child while he is unmarried and—

- (a) he has not attained the age of 17; or
- (b) having attained that age he is receiving full-time education or attending a course of not less than 2 years’ full-time training for a trade, profession or calling and he has been receiving such education or attending such course of training or both continuously since having attained that age without a break at any one time of longer than a year; or
- (c) having ceased while incapacitated to fall within sub-paragraph (a) or (b), he continues to be incapacitated.

(7) For the purposes of paragraph (6)(b) a person shall be treated—

- (a) as receiving full-time education up to and including the week which includes the first Monday in January or the first Monday after Easter Monday or the first Monday in September next following the end of the last term in which he received it; and
- (b) as not attending a course of training while he is receiving disqualifying remuneration.

(8) For the purposes of paragraph (7)(b), disqualifying remuneration is remuneration at a rate not less than the annual rate at which an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971, would for the time being be payable if it had begun, and first qualified for increases under that Act, on 1st April 1972 and had then been payable at an annual rate of £250.

(9) References in regulations E24 to E30 to a nominated beneficiary are to a person nominated under regulation E23.

(10) In paragraph (6)(b) the words “and he has been receiving such education or attending such course of training or both continuously since having attained that age without a break at any one time of longer than a year” shall not apply in relation to a provision to or for the benefit of a child of a person who died before the commencement of these Regulations.

### **Nomination of beneficiaries**

**E23.**—(1) Subject to paragraph (2), an unmarried person (“the appointor”) may at any time before retirement benefits have been paid by written notice given to the Department, nominate an eligible person who is wholly or mainly financially dependent on the appointor and who is not a child to receive a pension under regulations E24 to E30.

(2) A person shall not be eligible to be nominated under paragraph (1) while a previous nomination under this regulation has effect.

(3) The eligible persons are—

- (a) a parent, brother or sister of the appointor who is not married and is either widowed or has never been married; and
- (b) a widowed step-parent of the appointor.

(4) A nomination under this regulation may be revoked by written notice given to the Department, and if not previously revoked ceases to have effect—

- (a) on the death or marriage (or as the case may be, remarriage) of the person nominated; and
- (b) on the marriage of the appointor.

#### **Entitlement to short-term family benefits**

**E24.**—(1) Subject to paragraphs (3) and (4), a short-term pension is payable, from the day after that of his death, if a person dies—

- (a) while in pensionable employment; or
- (b) during a period for which he is paying additional contributions under regulation C6 or C7; or
- (c) within 12 months after ceasing to be in pensionable employment, or to pay such contributions, as a result of ill-health, but before becoming entitled to payment of retirement benefits; or
- (d) after becoming entitled to payment of retirement benefits.

(2) The short-term pension is payable—

- (a) subject to paragraph (4), to any surviving spouse, or if a nomination under regulation E23 had effect at the time of his death, to the nominated beneficiary; or
- (b) if the deceased is survived by a child or children of his, to or for the benefit of the child or, as the case may be, the children jointly.

(3) Where two or more persons confer on the same child or, as the case may be, children, entitlement to a short-term pension, regulation E26(7) shall apply in a like manner to short-term pensions payable by virtue of this regulation.

(4) No short-term pension is payable—

- (a) to a widower if one is payable to another person as a nominated beneficiary; or
- (b) to a nominated beneficiary who, at the date of the death of the deceased, was not wholly or mainly dependent on the deceased;
- (c) if there is no surviving spouse, nominated beneficiary or surviving child; or
- (d) where paragraph (1)(d) applies, to a person who is not entitled under regulation E26 to a long-term pension.

#### **Amount and duration of short-term family benefits**

**E25.**—(1) Subject to paragraph (2), the annual rate of a short-term pension under regulation E24

- (a) if regulation E24(1)(a) or (c) applies, is the annual rate of the deceased's contributable salary on his last day in pensionable employment, disregarding any reduction by reason of sick leave or maternity leave;
- (b) if regulation E24(1)(b) applies, is the annual rate, at the time of his death, of the notional salary described in regulation C6(7) or, as the case may be, C7(4);
- (c) if regulation E24(1)(d) applies, is the annual rate, at the time of his death, of his retirement pension; and
- (d) if regulation E24(1)(a) and (d) both apply, is the total of the rates specified in subparagraphs (a) and (c).

(2) If—

- (a) the short-term pension is payable to a surviving spouse; and
  - (b) the annual rate calculated in accordance with paragraph (1) is less than that of a long-term pension to which the surviving spouse is prospectively entitled under regulation E26,
- the annual rate of the short-term pension is the same as that of the long-term pension.

(3) The duration of the short-term pension payable shall be determined from the following Table and, in that Table “adult pension” means a short-term pension payable to the spouse or nominated beneficiary.

TABLE

<i>Category</i>	<i>Person falling within regulation E24(2)</i>	<i>Duration of pension (months)</i>
1	Spouse or nominated beneficiary.	3
2	One child or more where an adult pension is payable	3
3	One child or more where no adult pension is payable.	6

#### **Entitlement to long-term family benefits**

**E26.**—(1) Long-term pensions are payable in accordance with paragraph (2) if a person dies who—

- (a) has been in pensionable employment at any time after 31st March 1972; and
  - (b) has relevant service within the meaning of regulation E27 amounting to at least 2 years,
- but in the case of a person who ceased to be in pensionable employment before 6th April 1988 sub-paragraph (b) has effect with the substitution for “2 years” of “5 years”.

(2) If paragraph (1) applies—

- (a) subject to paragraph (3) a long-term pension is payable to any surviving spouse;
- (b) if a nomination under regulation E23 had effect at the time of the death, a long-term pension is payable to the nominated beneficiary provided that at the date of death of the deceased the nominated beneficiary was wholly or mainly dependent on the deceased; and
- (c) if a pension is payable under sub-paragraph (a) or (b) and the deceased is survived by a child or children of his, a long-term pension is payable to or for the benefit of the child or, as the case may be, the children jointly.

(3) Subject to paragraph (5), unless family benefit contributions have, or are to be treated as having, been paid under Part II of Schedule 6, no long-term pension is payable to a widower if one is payable to another person as a nominated beneficiary.

(4) If when a person dies paragraph (2) does not apply but he—

- (a) has been in pensionable employment at any time after 31st March 1972;
- (b) is qualified for retirement benefits; and
- (c) is survived by a child or children of his,

a long-term pension is payable to or for the benefit of the child or, as the case may be, the children jointly.

(5) Subject to paragraph (6), if neither paragraph (2) nor paragraph (4) applies but the deceased had a guaranteed minimum in relation to benefits under these Regulations and leaves a surviving spouse, a long-term pension is payable to the surviving spouse.

(6) If a contributions equivalent premium is paid by the Department, paragraph (5) shall be treated as not having applied.

(7) Where two or more persons, by virtue of this regulation, confer on the same child or, as the case may be, children entitlement to a long-term pension, the child or, as the case may be, children shall be entitled to receive payment of the long-term pension in respect of not more than two persons; but where entitlement derives from the relevant service of three or more persons, the child, or, as the case may be, children shall be entitled to receive payment of the long-term pension in respect of the two persons which by virtue of their relevant service provide pensions of the largest amounts.

### **Relevant service**

**E27.**—(1) In the case of a man, and in the case of a woman in relation to a nominated beneficiary or a widower on whose marriage to her a nomination ceased to have effect, relevant service comprises, subject to paragraph (3)—

- (a) any period of pensionable employment after 31st March 1972;
- (b) any period beginning after that date for which additional contributions have been paid under regulation C6 or C7;
- (c) any period for which additional contributions have been paid under regulation C3 or C5(1) in accordance with an election made after 31st March 1974;
- (d) if a transfer value has been received in respect of comparable service, the period that would, immediately before its receipt, have counted for family benefits in the relevant superannuation scheme;
- (e) any period counting as reckonable service by virtue of the receipt of any other transfer value under regulation F4 or under the Teachers' Superannuation (Added Years and Interchange) Regulations (Northern Ireland) 1974<sup>(22)</sup>;
- (f) any period in respect of which family benefit contributions have, or are to be treated as having, been paid under Part I of Schedule 6; and
- (g) in the case of a member, so much of his credited service as does not exceed the total of his normal service and any additional period, and in addition any period that fell to be calculated in accordance with paragraph 7(3) of Schedule 6.

(2) In relation to a widower not falling within paragraph (1), the deceased's relevant service comprises, subject to paragraph (3)—

- (a) so much of the periods described in paragraph (1)(a), (b) and (d) as consists of, or is attributable to, service after 5th April 1988; and
- (b) any period for which additional contributions have been paid under regulation C3 in accordance with an election made after 17th November 1988; and
- (c) any period in respect of which family benefit contributions have, or are to be treated as having, been paid under Part II of Schedule 6; and
- (d) if the deceased entered pensionable employment after 5th April 1988, and a transfer value offered in respect of him was accepted under regulation F4, any period counting as reckonable service by virtue of the receipt of the transfer value.

(3) Relevant service does not include any contributions refund period.

### **Amounts of spouses' and nominated beneficiaries' long-term pensions**

**E28.**—(1) Subject to paragraph (2), the annual rate of a pension payable under regulation E26 to a surviving spouse or a nominated beneficiary is 1/160th of the deceased's average salary multiplied by the length of his family benefit service.

(2) If—

(a) paragraph 16 of Schedule 6 (retrospective salary increases affecting deductions from terminal sums and amounts of lump sum payments) applies; and

(b) a person entitled to limit the amount of the deduction or lump sum has done so, the retrospective salary increase shall not be taken into account in calculating the deceased's average salary.

(3) Family benefit service does not include any contributions refund period.

(4) Subject to paragraphs (3) (5), and (8) to (10), if the pension is payable to a nominated beneficiary, to a widower on whose marriage to the deceased a nomination ceased to have effect, or to a woman whom the deceased married before the end of his pensionable employment the deceased's family benefit service comprises—

(a) any period falling within regulation E27(1)(a) to (f);

(b) in the case of a member, his credited service and any period that fell to be calculated in accordance with paragraph 7(3) of Schedule 6.

(5) If the member's credited service exceeds the total of his normal service and any additional period, for the purposes of paragraph (4)(b) his credited service is reduced by 1/6th of the excess.

(6) If the deceased had been in pensionable employment after 5th April 1978 and the pension is payable to a woman whom he first married after his last day in pensionable employment, his family benefit service comprises, subject to paragraph (3)—

(a) any period of pensionable employment after 5th April 1978;

(b) any period for which additional contributions have been paid under regulation C3 in accordance with an election made after that date;

(c) if a transfer value has been received after that date in respect of comparable service, any period of reckonable service attributable to comparable service after that date; and

(d) any period counting as reckonable service by virtue of the receipt after that date of any other transfer value.

(7) If the pension is payable to a widower not falling within paragraph (4), the deceased's family benefit service comprises, subject to paragraphs (3) and (8) to (10), the relevant service described in regulation E27(2).

(8) This paragraph applies if the deceased died—

(a) while in pensionable employment; or

(b) during a period for which he was paying additional contributions under regulation C6 or C7; or

(c) within 12 months after ceasing to be in pensionable employment as a result of ill-health but before becoming entitled to payment of retirement benefits; or

(d) after becoming entitled to payment of retirement benefits, if they fell to be enhanced under regulation E8 (enhancement of retirement benefits in case of incapacity).

(9) If paragraph (8) applies and the family benefit service calculated in accordance with paragraphs (3) to (7) is less than his effective reckonable service, his family benefit service is increased by—

$$\frac{A}{B} \times C$$

where—

A is the family benefit service calculated in accordance with paragraphs (3) to (7);

B is his effective reckonable service apart from C; and

C is the period which was, or would if regulation E8 had applied have been, the appropriate period within the meaning of that regulation.

(10) If paragraph (8) applies and A is not less than B, his family benefit service is increased by C.

### **Amounts of children's long-term pensions**

**E29.**—(1) Subject to paragraphs (3) to (6), if long-term pensions become payable under regulation E26—

(a) to a surviving spouse or a nominated beneficiary (an “adult pension”); and

(b) to or for the benefit of a child or children (a “children's pension”),

the annual rate of the children's pension is the appropriate fraction of the deceased's average salary multiplied by the length of his family benefit service.

(2) In paragraph (1) the appropriate fraction—

(a) while a children's pension is payable to or for the benefit of 2 or more children, is 1/160th; and

(b) while a children's pension is payable to or for the benefit of one child, is 1/320th.

(3) Subject to paragraphs (4) to (6), if—

(a) an adult pension becomes payable to a woman whom the deceased married after his last day in pensionable employment;

(b) before that day he had married another woman; and

(c) the persons to or for whose benefit a children's pension is payable include a child who was, or children who were, a child or children of the deceased's at any time during the earlier marriage, the annual rate of the children's pension is the appropriate fraction of his average salary multiplied by the length of what would have been his family benefit service if regulation E28(4) had applied (“the notional family benefit service”).

(4) If the children's pension is payable to, or for the benefit of—

(a) one child who was a child of the deceased's during the earlier marriage; and

(b) one or more children who were not children of his during that marriage,

the annual rate of the children's pension is

$$A + B,$$

where—

A is 1/320th of his average salary multiplied by the length of the notional family benefit service; and

B is 1/320th of his average salary multiplied by the actual length of his family benefit service.

(5) If—

(a) no adult pension becomes payable; or

(b) an adult pension ceases to be payable,

the annual rate of a children's pension is the applicable fraction of the deceased's average salary multiplied by the greater of C and D, or where regulation E28(8) applies, the greater of

**C and (D + E),**

where—

C is the notional family benefit service;

D is the deceased's effective reckonable service apart from E; and

E is the period which was, or would if regulation E8 had applied have been, the appropriate period within the meaning of that regulation.

(6) In paragraph (5) the applicable fraction—

(a) while a children's pension is payable to or for the benefit of 2 or more children, is 1/120th; and

(b) while a children's pension is payable to or for the benefit of one child, is 1/240th.

### **Commencement and duration of long-term family pensions**

**E30.**—(1) A pension under regulation E26 payable to a surviving spouse or a nominated beneficiary ("an adult pension") shall be paid—

(a) from the day on which any short-term pension that became so payable under regulation E24 ceases to be payable; or

(b) if no short-term pension became payable, from the day after that of the death.

(2) Subject to paragraph (3), an adult pension is payable for life.

(3) Unless the Department determines otherwise in any particular case, and subject always to regulation E1(3)(c) and (d) (guaranteed minimum pension for surviving spouse), an adult pension is not payable during or after any marriage or period of cohabitation outside marriage.

(4) A pension under regulation E26 payable to or for the benefit of a child or children ("a children's pension") shall be paid—

(a) from the day on which any short-term pension that became so payable, or payable to a surviving spouse or a nominated beneficiary, under regulation E24 ceases to be payable; or

(b) if no short-term pension became payable, from the day after that of the death.

(5) A children's pension ceases to be payable to a person or for his benefit when he ceases to be a child.

### **Average salary**

**E31.**—(1) Subject to paragraph (10), a person's average salary—

(a) where the material part of his average salary service is one year or more, is his full salary for the best consecutive 365 days of that part; and

(b) in any other case, is the average annual rate of his full salary for that part.

(2) In determining, for the purposes of paragraph (1), what are the best consecutive 365 days of the material part of the person's average salary service, days on which the person was not in pensionable employment shall be disregarded.

(3) Average salary service comprises—

(a) any period spent by the person in pensionable employment;

(b) any period counting as reckonable service by virtue of regulation D4 (current period purchased by additional contributions); and

- (c) any period of comparable service which began before 1st April 1974 and has not been followed by a period of pensionable employment and for which a transfer value has been received.
- (4) The material part of a person's average salary service is—
- (a) where he has less than 3 years of such service, the whole of it; or
  - (b) in any other case, the last 3 years of it.
- (5) In determining the material part of a person's average salary service periods when the person was not in pensionable employment shall be disregarded and accordingly the period of three years referred to in paragraph (4) may be discontinuous.
- (6) For the purposes of paragraphs (2), (3)(a) and (5) a person who is employed under a contract whereby that person is available for work but undertakes work only for periods requested by the employer (and accordingly is paid only for that work) shall not be treated as being in pensionable employment during periods when he is not undertaking work (whether or not such a person would be so treated apart from this paragraph).
- (7) Subject to paragraphs (8) and (9), a person's full salary—
- (a) for a period falling within paragraph (3)(a), is his contributable salary for the period of pensionable employment, disregarding any reduction during sick leave or maternity leave;
  - (b) for a period falling within paragraph (3)(b), is the notional salary by reference to which the additional contributions paid under regulation C6 or, as the case may be C7, were calculated;
  - (c) for a period falling within paragraph (3)(c), is what would have been his salary for the purpose of calculating benefits under the superannuation scheme to which he was subject in the relevant employment.
- (8) For—
- (a) a period of pensionable employment; or
  - (b) a period counting as reckonable service by virtue of regulation D4,
- beginning after 31st March 1975 and ending before 1st August 1978, a person's full salary includes any sums that would have been payable to him if payment of them had not been withheld, whether by virtue of a statutory provision or otherwise, in order to comply with limits referred to in section 1 of the Remuneration, Charges and Grants Act 1975(23).
- (9) For—
- (a) a period of pensionable employment; or
  - (b) a period counting as reckonable service by virtue of regulation D4,
- beginning after 31st March 1979 and ending before 1st September 1980, a persons' full salary is the notional salary resulting from the application to him of the Teachers' Superannuation (Notional Salaries) Regulations (Northern Ireland) 1982(24).
- (10) Where a person has during the material part of his average salary service spent any period in part-time employment the full salary for that period shall be the amount which it would have been if the employment had been full time during that period.

### **Effective reckonable service**

**E32.**—(1) A person's effective reckonable service is so much of his reckonable service as counts for the purpose of calculating a benefit under this Part, except a pension under regulation E26.

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(23) 1975 c. 57

(24) S.R. 1982 No. 12

- (2) Subject to paragraph (3), effective reckonable service does not include—
- (a) any reckonable service in excess of 45 years; or
  - (b) any reckonable service in excess of 40 years before attaining the age of 60.
- (3) In relation to a retirement lump sum, if the person's relevant service, that is to say the total of—
- (a) the time he has spent in pensionable employment; and
  - (b) any comparable service counting as reckonable service by virtue of the receipt of a transfer value,

is less than 20 years, his effective reckonable service does not include so much of any period counting as reckonable service by virtue of regulation D3 (past period purchased by additional contributions) as exceeds the maximum ascertained from the following Table:

TABLE

<i>Relevant service in years</i>	<i>Maximum</i>
19	17 years
18	15 years
17	13 years
16	11 years
15	9 years
14	7 years
Fewer than 14	8 years less than the length in years and days of the relevant service

(4) For the purposes of paragraph (3) a person who becomes entitled to payment of retirement benefits by virtue of regulation E4(4) or (7) (incapacity or redundancy before attaining the age of 60) shall be treated as having continued in pensionable employment up to that age.

(5) Effective reckonable service does not include any period in respect of which a short service annuity is payable under regulation E16.

### **Payment of benefits**

**E33.**—(1) Benefits under this Part are payable by the Department.

(2) No benefit shall be paid unless a written application for payment has been made and paragraph (3), if applicable, has been complied with.

(3) If the Department notifies him in writing that it so requires, the applicant shall provide any relevant information specified by the Department that is in his possession or that he can reasonably be expected to obtain.

(4) Subject to paragraphs (5) to (7), a benefit that does not consist of a single payment shall be paid monthly on the last working day of the month.

(5) If—

- (a) the person's entitlement to payment of the benefit took effect, on a day other than the first of a month; or
- (b) the benefit ceases to be payable, on a day other than the last day of the month,

a proportionate payment shall be made for the relevant period on the last working day of the month thereafter.

- (6) For the purposes of paragraph (5) the relevant period is—
- (a) where paragraph (5)(a) applies, the period beginning with and including the day on which the entitlement took effect and ending with the last day of the month; and
  - (b) where paragraph (5)(b) applies, the period beginning with and including the first of the month and ending with the day before the benefit ceased to be payable.
- (7) For the purposes of paragraph (5) a proportionate payment is a payment of—

$$\frac{A}{12} \times \frac{B}{C}$$

where—

- A is the annual rate of the benefit;
- B is the number of days in the relevant period; and
- C is the number of days in the month containing the relevant period.

(8) The Apportionment Act 1870<sup>(25)</sup> (being inconsistent with paragraphs (5) to (7)) shall be taken not to have effect in relation to benefits under this Part.

(9) If the person entitled to payment of a benefit has not attained the age of 18, or is incapable by reason of infirmity of mind or body of managing his affairs, the Department may—

- (a) pay it to any person having the care of the person entitled; or
- (b) apply it as it thinks fit for the benefit of the person entitled or his dependants.

### **Benefits not assignable**

**E34.**—(1) Any assignment of or charge on or agreement to assign or charge any benefit under this Part is void.

(2) An allocation under regulation E11 is not an assignment, and an arrangement for the recovery by the Department of an overpayment does not constitute an assignment or an agreement to assign.

(3) Paragraph (1) shall not preclude any payment of benefit payment to an order of the court under Article 27B or 27C of the Matrimonial Causes (Northern Ireland) Order 1978 or pursuant to regulations made under Article 27D of that Order<sup>(26)</sup>.

(4) On the bankruptcy of a person entitled to a benefit under this Part no part of the benefit passes 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 Article 283 of the Insolvency (Northern Ireland) Order 1989<sup>(27)</sup>.

## **Part F**

### **Transfer Values**

#### **Payment of transfer values**

**F1.**—(1) Subject to paragraphs (2) to (7), a transfer value shall be paid in respect of a person who has ceased to be in pensionable employment and has become subject to an approved superannuation

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<sup>(25)</sup> 1870 c. 35

<sup>(26)</sup> S.I. 1978/1045 (N.I. 15); Articles 27B, 27C and 27D were inserted by S.I. 1995/3213 (N.I. 22) Article 162(1)

<sup>(27)</sup> S.I. 1989/2405 (N.I. 19) as amended by S.I. 1995/3213 (N.I. 22) Article 119 and Schedule 1 paragraph 11

scheme or, if he ceased to be in pensionable employment after 31st December 1985, a personal pension scheme (“the receiving scheme”).

(2) The person shall have made a written application to the Department, within 12 months after the day on which he became subject to the receiving scheme, for the transfer value to be paid.

(3) A transfer value shall not be paid if one was paid before 2nd November 1998 in relation to the same transfer.

(4) A transfer value shall not be paid in respect of a person who, when the application was received, had become entitled under regulation E4 to payment of retirement benefits or under regulation E16 or E17 respectively to a short service annuity or incapacity grant, unless the employment in which he has become subject to the receiving scheme is comparable service and he entered it—

- (a) immediately after ceasing to be in pensionable employment; or
- (b) on or before his 60th birthday,

and has not applied for payment of any benefit.

(5) A transfer value shall not be paid if the receiving scheme is an approved superannuation scheme which is administered wholly or primarily in the United Kingdom and is not a contracted-out scheme, unless the person—

- (a) has been in pensionable employment for less than 2 years or is not qualified for retirement benefits; or
- (b) ceased to be in pensionable employment before 6th April 1978; or
- (c) is a married woman or widow who, by virtue of an election made or treated as made under regulations under section 19(4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(28), either is liable to pay primary Class 1 contributions or Class 2 contributions at a reduced rate or is under no liability to pay Class 2 contributions.

(6) A transfer value shall not be paid if the person has acquired a right to a cash equivalent, unless—

- (a) the service to which the cash equivalent relates includes service before 1st March 1989; and
- (b) the right has been exercised by requiring the whole of the cash equivalent to be paid to the scheme managers of an approved superannuation scheme which is not a club scheme.

(7) A transfer value shall not be paid if the person—

- (a) has acquired a right to a part cash equivalent; and
- (b) would on taking that right remain qualified for retirement benefits.

#### **Amounts of transfer values and additional transfer values**

**F2.**—(1) Part I of Schedule 11 has effect, subject to paragraphs (2) and (3), for determining the amounts of transfer values payable under regulation F1.

(2) Unless the receiving scheme is a club scheme, where—

- (a) the person in respect of whom a transfer value is payable had become entitled to count reckonable service under regulation F4(8) (receipt of transfer value); and
- (b) the amount determined in accordance with Part I of Schedule 11, together with that of any cash equivalent paid on the transfer, is less than the appropriate amount,

a transfer value of the appropriate amount shall be paid.

(3) For the purposes of paragraph (2) the appropriate amount is

**A + B – C,**

where—

A is the transfer value received under regulation F4;

B is the total of the contributions paid by the person under Part C, except any that fell to be treated for the purposes of regulation G2 as employers' contributions; and

C is any cash equivalent paid on the transfer.

### **Termination of right to count reckonable service**

**F3.** A person—

(a) in respect of whom a transfer value has been paid under regulation F1; or

(b) who has acquired a right to a cash equivalent and exercised the option to take that right,

ceases to be entitled to count as reckonable service, or as part of a qualifying period within the meaning of regulation E3, any period to which the transfer value or cash equivalent related.

### **Acceptance of transfer values**

**F4.**—(1) Subject to paragraphs (2) to (6), a transfer value offered to the Department by the scheme managers of—

(a) an approved superannuation scheme; or

(b) a personal pension scheme; or

(c) a scheme constituting a self-employed pension arrangement,

(“the previous scheme”), in respect of a person who has entered pensionable employment, may be accepted.

(2) In paragraph (1) “self-employed pension arrangement” means a personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation Taxes Act(29) (“the 1988 Act”) which—

(a) is approved by the Commissioners of Inland Revenue under that Chapter; and

(b) is neither a personal pension scheme within the meaning of Section 1 of the Pensions Act nor a contract or scheme approved under Chapter III of Part XIV of the 1988 Act.

(3) The person shall have made a written request to the Department for the transfer value to be accepted.

(4) Unless while the person was subject to the previous scheme he was employed in comparable service, the request shall have been made within 12 months after the day on which he entered pensionable employment.

(5) A transfer value shall not be accepted before 2nd November 1998 in relation to the same transfer.

(6) Subject to paragraph (7) a transfer value shall not be accepted if—

(a) before he ceased to be subject to the previous scheme the person became entitled under regulation E4 to payment of retirement benefits; or

(b) he has become entitled to payment of benefits under a provision of a statutory scheme corresponding to regulation E4.

(7) Paragraph (6) does not apply if while the person was subject to the previous scheme, he was employed in comparable service and he entered pensionable employment—

- (a) immediately after the end of the employment; or
- (b) on or before his 60th birthday.

(8) A person in respect of whom a transfer value has been accepted is entitled to count reckonable service in accordance with Part II of Schedule 11.

## Part G

### Finance

#### **Teachers' superannuation account**

**G1.** Subject to the transitional provisions in Part I of Schedule 12, an account substantially in the form set out in Part II of that Schedule shall be prepared by the Department for every financial year.

#### **Receipts, etc., to be credited**

**G2.**—(1) Employees' and employers' contributions received during the financial year shall be credited to the account.

(2) Employees' contributions comprise—

- (a) all contributions payable under regulations C2(1), C3, C4, C5 and C8;
- (b) so much of any additional contributions payable under regulations C6 and C7 as would have been payable under regulation C2(1) if pensionable employment had continued; and
- (c) all amounts payable under regulations C13 and C14 (return of repaid contributions).

(3) Employers' contributions comprise—

- (a) the contributions payable under regulation G5; and
- (b) so much of any additional contributions payable under regulation C6 as would have been payable under regulation G5 if pensionable employment had continued.

(4) There shall also be credited to the account—

- (a) the closing balance in the account for the preceding financial year;
- (b) all transfer values under regulation F4 received during the financial year;
- (c) all contributions equivalent premiums refunded, or recovered under sections 57 to 59 of the Pensions Act, during the financial year;
- (d) any interest and other payments under these Regulations received during the financial year; and
- (e) the notional interest for the financial year described in Part III of Schedule 12.

#### **Payments to be debited**

**G3.** There shall be debited to the account all sums paid during the financial year by way of—

- (a) benefits under Part E;
- (b) payments under paragraph 12 of Schedule 9 (equivalent pension benefits);
- (c) repayment of contributions (including interest) under regulations C10 and C12;
- (d) transfer values under regulation F1;

- (e) contributions equivalent premiums; and
- (f) increases payable under the Pensions (Increase) Act (Northern Ireland) 1971<sup>(30)</sup>.

### Actuarial inquiries

**G4.**—(1) The Government Actuary shall make an actuarial inquiry reporting on the position in relation to the Account at the end of the financial year ending with 31st March 2001 and at the end of every fifth subsequent financial year (“the financial year in question”).

(2) A report on the actuarial inquiry shall be made to the Department as soon as practicable after the end of the financial year in question and shall be laid by it before the Northern Ireland Assembly.

(3) The report shall specify the percentage of the contributable salaries of persons entering pensionable employment on the first day of the next financial year at which contributions should be paid, during the period beginning on and including 1st April next following the date of the report and ending with 31st March next following the date of the next report (“the relevant period”), so as to defray the cost of the payments of the kinds described in regulation G3(a) to (f) that are likely to be made in respect of them.

(4) The report shall state the amount by which, at the end of the financial year in question, the amount of the scheme assets exceeded or fell short of that of the scheme liabilities.

(5) In this regulation, the scheme assets are—

- (a) the value of the employees' contributions receivable after the end of the financial year in respect of persons who at the end of that year were or had been in pensionable employment;
- (b) the value of the employers' contributions in respect of such persons receivable after the end of the financial year, except any such supplementary contributions as are mentioned in paragraph (7);
- (c) the value of payments that would fall to be credited under regulation G2(4)(d) and (e) to the accounts for subsequent financial years; and
- (d) the actuarial value at the end of the financial year of the notional and assumed investments described in paragraph 5 of Schedule 12.

(6) The scheme liabilities are the payments to be made under these Regulations after the end of the financial year in respect of persons who at the end of that year were or had been in pensionable employment.

(7) If the report states that the amount of the scheme liabilities exceeded that of the scheme assets, it shall specify a rate (expressed as a percentage) at which, during the relevant period, supplementary contributions should be paid by employers of persons in pensionable employment so as to remove the deficiency within the period for 40 years beginning at the same time as the relevant period.

(8) The rate mentioned in paragraph (7) shall be expressed as a percentage of the contributable salaries from time to time of persons in pensionable employment; the percentage shall either be or be a multiple of 0.05.

(9) In this regulation “employees' contributions” and “employers' contributions” shall be construed respectively in accordance with regulation G2(2) and (3).

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<sup>(30)</sup> 1971 c. 35 (N.I.). Part 1 of the Act has been amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)); Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I.2)); Article 74(2) of, and Schedule 6 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and Article 2 of the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264)). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) which have effect as if they were contained in Part V of that Act. Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) Article 10(3) Part I of the Act has also been amended by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13))

### **Employers' contributions**

**G5.**—(1) Subject to paragraph (3), the employer of a person in pensionable employment shall, during every relevant period, pay contributions of the required percentage of his contributable salary for the time being.

(2) The required percentage is

**(A - 6) + B,**

where—

A is the percentage specified for the relevant period under regulation G4(3); and

B is any percentage specified for the relevant period under regulation G4(7) and (8).

(3) No contributions shall be paid in respect of anyone to whom regulation E32(2)(a) (restriction of reckonable service to 45 years) has become applicable.

(4) For the purposes of this regulation “relevant period” shall be construed in accordance with regulation G4(3).

### **Payment by employers to the Department**

**G6.**—(1) The employer of a person in pensionable employment shall pay to the Department within 7 days after the end of each month—

(a) all amounts due from the person that are deductible from his salary under regulation C15(1); and

(b) the contributions payable under regulation G5,

in respect of his contributable salary for that month.

(2) For the purposes of paragraph (1)—

(a) all salaries shall be treated as being payable monthly in arrear; and

(b) any arrears payable by reason of a retrospective increase in contributable salary shall be treated as having become payable in the month in which they were paid.

(3) If the full amount of any payment required by paragraph (1) is not received by the Department within 7 days after the end of the month interest is payable by the employer on the amount outstanding at 12 per cent per annum, compounded with monthly rests, from the 8th day to the date of payment; but the Department may in any particular case waive the payment of interest.

(4) The Department may deduct from any grants due to the employers under Part V of the Education Reform (Northern Ireland) Order 1989(31) any sum due to it under paragraph (1) and if so deducted such sum shall not be paid by the employer to the Department in accordance with that paragraph.

## **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) subject to sub-paragraph (4), ceases to be employed and is re-employed within 6 months, by the same employer,
- at a reduced rate of contributable salary in a different post; and
- (b) he does not elect under regulation C1(6) that his contributable salary is to be treated as having continued at the previous rate; and
  - (c) his employer notifies the Department in writing, within 13 weeks after the first day of his employment at the reduced rate, that his employment at that rate is in the interests of the efficient discharge of the employer's functions; and
  - (d) the application to him of this paragraph would, taking into account prospective increases under the Pensions (Increase) Act (Northern Ireland) 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 9.

(2) For the purposes of paragraph (1) the contributable salary of a person in part-time employment shall be taken to be what it would have been if the employment had been full-time, but where the employers at the previous rate and at the reduced rate were in fact different, the former is the employer for the purposes of notification under paragraph (1)(c).

(3) A second or subsequent application of paragraph (1) does not affect its previous operation.

(4) In sub-paragraph (1)(a) the words "in a different post" shall not apply in relation to a person whose employment at a reduced rate of contributable salary started before the commencement of these Regulations.

### **Records and information**

**H2.**—(1) The employer of a person in pensionable employment shall record for each financial year—

- (a) the rate of the persons' 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 been 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)(b) (accommodation and related services);
- (e) the contributions deducted under regulation C15(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 such absence.

(2) Every employer shall, within such reasonable time as the Department may require, make to the Department such reports and returns, and to give to it such information about persons who are or have been in pensionable employment, as it may reasonably require for the purposes of its functions under these Regulations; and such persons, or their personal representatives, shall give to the Department such information and produce such documents as it may reasonably require for those purposes.

### **Payments in respect of deceased persons**

**H3.**—(1) This regulation applies where a person dies and the total of—

- (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 £5,000.

(2) Where this regulation applies the Department 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 it to be beneficially entitled to the estate.

### **Revaluation of guaranteed minimum in certain cases**

**H4.**—(1) This regulation applies where a person has ceased to be in pensionable employment and has taken a right to a cash equivalent by exercising the option conferred by section 91(1) of the Pensions Act wholly or partly in the way specified in section 91(2)(c) of that 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 15(3) and (4) of the Pensions Act—

- (a) for the purposes of section 10 of that Act (earner’s guaranteed minimum) the person’s earnings factors shall be determined by reference to the last order made under Article 23 of the Social Security Pensions (Northern Ireland) Order 1975(32) or Section 130 of the Social Security Administration (Northern Ireland) Act 1992(33) 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 10(2) of that Act shall be increased in accordance with any additional requirements for the time being prescribed for the purposes 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 12(5) of the Pensions Act(34).

### **Extension of time**

**H5.** The Department 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.

### **Determination of Questions**

**H6.** All questions arising under these Regulations shall be determined by the Department.

### **Revocations, savings and transitional provisions**

**H7.**—(1) Subject to paragraph (2) the Regulations specified in Part I of Schedule 13 are hereby revoked.

(2) The revocations made by Part I of Schedule 13 have effect subject to the savings in Part II of that Schedule.

(3) The provisions of Part II of Schedule 13 do not affect the general operation of section 29 of the Interpretation Act (Northern Ireland) 1954(35).

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(32) S.I. 1975/1503 (N.I. 15)

(33) 1992 c. 8

(34) As amended by S.I. 1995/3213 (N.I. 22) Article 147 and Schedule 3 paragraph 21

(35) 1954 c. 33 (N.I.)

(4) Part III of Schedule 13 has effect for the purpose of making transitional provisions consequential upon the making of these Regulations.

Sealed with the Official Seal of the Department of Education on

22nd September 1998.

*T. N. Jackson*  
Assistant Secretary

The Department of Finance and Personnel hereby consents to the foregoing Regulations.  
Sealed with the Official Seal of the Department of Finance and Personnel on

22nd September 1998.

*C. P. Moore*  
Assistant Secretary

## SCHEDULE 1

Regulation A2(1)

**Glossary of Expressions**

<i>Expression</i>	<i>Meaning</i>
“Actuarial”	Determined by, or in accordance with tables prepared by, the Government Actuary.
“Age of compulsory retirement”	<p>(a) the age at 31st July next following the age of sixty-five in the case of teachers born in the month of August who first entered reckonable service before 1st April 1972 and who elect that sub-paragraph (b) shall not apply to them;</p> <p>(b) in all other cases 31st August next following the age of sixty-five.</p>
“Approved superannuation scheme”	<p>An occupational pension scheme which—</p> <p>(a) is approved under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988(36) and does not fall within section 591(2)(h) of that Act; or</p> <p>(b) immediately before 2nd November 1998 was an approved superannuation scheme for the purposes of Part IV of the 1977 Regulations; or</p> <p>(c) a relevant statutory scheme defined by section 611A of the Income and Corporation Taxes Act 1988(37).</p>
“Average salary”	Construe in accordance with regulation E31.
“British Islands”	Means the United Kingdom, the Channel Islands and the Isle of Man.
“Cash equivalent”	Construe in accordance with Chapter IV of Part IV of the Pensions Act.
“Child”	Construe in accordance with regulation E22.
“Club scheme”	<p>An approved superannuation scheme which—</p> <p>(a) is a contracted-out scheme or is a scheme established and maintained in the Channel Islands which is not a contracted-out scheme;</p> <p>(b) is a final salary scheme;</p> <p>(c) is a scheme which is open to new participants (“open scheme”) or, if not a scheme so open (“closed scheme”), is a scheme whose trustees or managers also provide an open scheme which is a scheme for new employees of the</p>

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(36) 1988 c. 1

(37) Section 611A was inserted by the Finance Act 1989, Schedule 6 para 15

<i>Expression</i>	<i>Meaning</i>
	same employer and of the same grade or level of post as participants of the closed scheme; and
	(d) is a scheme whose trustees or managers have undertaken to comply with the reciprocal arrangements for the payment and receipt of transfer values agreed from time to time between the trustees or managers of such a scheme.
“Comparable service”	Service which is pensionable under a superannuation scheme for teachers in public employment in any part of the British Islands outside Northern Ireland.
“Contracted-out employment”, “Contracted-out scheme”	Construe in accordance with section 4 of the Pensions Act.
“Contributable salary”	Construe in accordance with regulation C1.
“Contributions equivalent premium”	A premium under section 51(2) of the Pensions Act(38)
“Contributions refund period”	A period in respect of which contributions have been or are to be repaid and— <ul style="list-style-type: none"> <li>(a) have not been, or fallen to be treated as having been, returned; or</li> <li>(b) have been returned but have since been repaid.</li> </ul>
“Credited service”	The meaning given in paragraph 1(6) of Schedule 6.
“the Department”	The Department of Education.
“Effective reckonable service”	Construe in accordance with regulation E32.
“Employment”	Employment under a contract of service.
“Entitled”	Any reference to a person entitled to payment of retirement benefits shall be construed as including a reference to a person who has not applied for payment of them.
“Excluded employment”	Construe in accordance with regulation B5.
“Family benefits”	Benefits payable under regulations E22 to E30.
“Family benefit service”	Construe in accordance with regulation E28.
“Final salary scheme”	A scheme which provides for the calculation of retirement benefits based on— <ul style="list-style-type: none"> <li>(a) a person’s remuneration for any one of the five years preceding his retirement date; or</li> <li>(b) the annual average of a person’s aggregate remuneration for any period of</li> </ul>

<i>Expression</i>	<i>Meaning</i>
	three or more consecutive years ending not earlier than ten years before his retirement date.
“Full-time”	Employment is “full-time” if the contract so describes it (whether expressly or otherwise) and entitles the employee to remuneration at an annual, termly or monthly rate.
“Guaranteed minimum pension”	A guaranteed minimum pension, or accrued rights to guaranteed minimum pension, under section 10 of the Pensions Act.
“Incapacitated”	A person is incapacitated— (a) in the case of a teacher or organiser, while he is unfit by reason of illness or injury and despite appropriate medical treatment to serve as such and is likely permanently to be so; and (b) in any other case, while he is incapable by reason of such unfitness of earning his livelihood and is not maintained out of money provided by or under any statutory provision or raised by a rate.
“Interchange provisions”	Means Part F and any interchange rules made by the Department under any previous provisions.
“Member”	Construe in accordance with paragraph 1(1) of Schedule 6.
“Normal contributions”, “normal service”	Construe in accordance with paragraph 1(2) of Schedule 6.
“Occupational pension scheme”	Means an occupational pension scheme within the meaning of section 1 of the Pensions Act.
“Organiser”	A person in employment which involves the performance of duties in connection with the provision of education or services ancillary to education.
“Part cash equivalent”	The cash equivalent of any part of the benefits mentioned in Chapter IV of Part IV of the Pensions Act relating to continuation in employment after termination of pensionable service.
“Part-time”	Employment is “part-time” if the contract requires the employee to work for less than the whole of the working week.

<i>Expression</i>	<i>Meaning</i>
“Payment in lieu of contributions”	A payment in lieu of contributions under Part III of the National Insurance Act (Northern Ireland) 1966 <sup>(39)</sup> .
“Pensionable employment”	In relation to any time before 2nd November 1998, means employment in reckonable service for the purposes of the 1977 Regulations or previous provisions;  In relation to any time after 2nd November 1998, shall be construed in accordance with Part B.
“Personal Pension Scheme”	A personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 (Personal Pension Schemes) which is approved by the Inland Revenue for the purposes of that Chapter.
“Previous provisions”	Provisions contained in or made under a statutory provision relating to the superannuation of teachers which were in force at any time before 1st October 1977.
“Qualified for retirement benefits”	Construe in accordance with regulation E3.
“Reckonable service”	Construe in accordance with regulation D1.
“Retirement benefits”	Construe in accordance with regulation E2.
“Retirement lump sum”	A retirement lump sum payable under Part E.
“Retirement pension”	A retirement pension payable under Part E.
“Scheme managers”	In relation to a statutory scheme, means the Minister of the Crown or Government Department or local authority, or police or fire authority administering the scheme; in relation to any other scheme means the person responsible for the management of the scheme.
“State pensionable age”	Construe in accordance with Article 123 of and Part I of Schedule 2 to the Pensions (Northern Ireland) Order 1995 <sup>(40)</sup> .
“Supervisor”	A person employed in a capacity connected with education which to a substantial extent involves the control or supervision of teachers.
“Tax Year”	A period of 12 months beginning with and including 6th April in any year.
“Teacher’s pension”	A period of 12 months beginning with and including 6th April in any year. An annual allowance which became payable under the

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<sup>(39)</sup> 1966 c. 6 (N.I.)

<sup>(40)</sup> S.I. 1995/3213 (N.I. 22)

<i>Expression</i>	<i>Meaning</i>
	1977 Regulations or previous provisions or a retirement pension.
“Temporary teacher”	Means a full-time teacher in respect of whose employment an agreement is not required under Article 69(8) of the Education and Libraries (Northern Ireland) Order 1986(41) and who is paid salary for each working day at the rate of 1/195th of the salary which he would receive if he were employed in a permanent capacity or, if employed in an institution of further or higher education, at the rate of 1/200th of the salary.
“Terminal sum”	Includes a retirement lump sum, a short service incapacity grant, a refund of contributions and any sum payable on death.
“The Modification Regulations”	The National Insurance (Modification of Teachers' Annual Allowances) Regulations (Northern Ireland) 1951(42) and the National Insurance (Modification of Teachers' Annual Allowances) Amending Regulations (Northern Ireland) 1957(43).
“The 1967 Regulations”	The Teachers' Superannuation (Family Benefits) Rules (Northern Ireland) 1967(44).
“The 1972 Regulations”	The Teachers' Superannuation Regulations (Northern Ireland) 1972(45).
“The 1972 Family Benefits Rules”	The Teachers' Superannuation (Family Benefits) Rules (Northern Ireland) 1972(46).
“The 1977 Regulations”	The Teachers' Superannuation Regulations (Northern Ireland) 1977(47).
“The Acts of 1950 to 1967”	The Teachers' (Superannuation) Act (Northern Ireland) 1950(48), the Teachers' (Superannuation) (Amendment) Act (Northern Ireland) 1956(49) and the Teachers' Superannuation (Amendment) Act (Northern Ireland) 1967(50).

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(41) S.I. 1986/594 (N.I. 3) Article 69 was substituted by Article 42 of S.I. 1993/2810 (N.I. 12) and amended by Schedule 4 to S.I. 1997/1722 (N.I. 15)

(42) S.R. & O. (N.I.) 1951 No. 129 (p. 101) as amended by the National Insurance (Modification of Teachers' Annual Allowances) Amending Regulations (Northern Ireland) 1957

(43) S.R. & O. (N.I.) 1957 No. 210 (p. 248)

(44) S.R. & O. (N.I.) 1967 No. 124

(45) S.R. & O. (N.I.) 1972 No. 319 to which there are amendments not relevant to these Regulations

(46) S.R. & O. (N.I.) 1972 No. 82 to which there are amendments not relevant to these Regulations

(47) S.R. 1977 No. 260 as amended by S.R. 1978 No. 147, S.R. 1978 No. 351, S.R. 1979 No. 380, S.R. 1980 No. 435, S.R. 1981 No. 151, S.R. 1982 No. 12, S.R. 1982 No. 162, S.R. 1982 No. 346, S.R. 1987 No. 76, S.R. 1987 No. 86, S.R. 1987 No. 315, S.R. 1988 No. 64, S.R. 1988 No. 167, S.R. 1988 No. 363, S.R. 1989 No. 25 and S.R. 1989 No. 181

(48) 1950 c. 33 (N.I.)

(49) 1956 c. 22 (N.I.)

(50) 1967 c. 3 (N.I.)

<i>Expression</i>	<i>Meaning</i>
“The Pensions Act”	The Pension Schemes (Northern Ireland) Act 1993(51).
“Working day”	A week-day other than a Saturday or a public holiday.

## SCHEDULE 2

Regulations B1(1) and (2), C6(1) and E14(1)

**Employments Pensionable without Election****Part I**

1. A teacher employed in a grant-aided school in Northern Ireland.
2. A teacher employed in an institution of further or higher education in Northern Ireland.
3. A peripatetic teacher employed by an education and library board in Northern Ireland.
4. A teacher in a college of education as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(52).
5. A teacher in the University of Ulster on 1st October 1984 who was employed in reckonable service as a teacher in the Ulster Polytechnic on 30th September 1984 unless he elected by notice in writing served on the Department not later than 30th September 1985, that service with the University of Ulster as from the date specified in the notice, not being later than 1st October 1985, should no longer be pensionable service.
6. A teacher in a training school or a remand home, as those expressions are defined in section 180(1) of the Children and Young Persons Act (Northern Ireland) 1968(53) who is recognised by the Northern Ireland Office after consultation with the Department as duly qualified at the commencement of the service to teach in such training school or remand home.

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(51) 1993 c. 49 as amended by S.I. 1995/3213 (N.I. 22)

(36) 1988 c. 1

(37) Section 611A was inserted by the Finance Act 1989, Schedule 6 para 15

(38) As substituted by S.I. 1995/3213 (N.I. 22) Article 138(1)

(39) 1966 c. 6 (N.I.)

(40) S.I. 1995/3213 (N.I. 22)

(41) S.I. 1986/594 (N.I. 3) Article 69 was substituted by Article 42 of S.I. 1993/2810 (N.I. 12) and amended by Schedule 4 to S.I. 1997/1722 (N.I. 15)

(42) S.R. & O. (N.I.) 1951 No. 129 (p. 101) as amended by the National Insurance (Modification of Teachers' Annual Allowances) Amending Regulations (Northern Ireland) 1957

(43) S.R. & O. (N.I.) 1957 No. 210 (p. 248)

(44) S.R. & O. (N.I.) 1967 No. 124

(45) S.R. & O. (N.I.) 1972 No. 319 to which there are amendments not relevant to these Regulations

(46) S.R. & O. (N.I.) 1972 No. 82 to which there are amendments not relevant to these Regulations

(47) S.R. 1977 No. 260 as amended by S.R. 1978 No. 147, S.R. 1978 No 351, S.R. 1979 No. 380, S.R. 1980 No. 435, S.R. 1981 No 151, S.R. 1982 No. 12, S.R. 1982 No. 162, S.R. 1982 No. 346, S.R. 1987 No 76, S.R. 1987 No. 86, S.R. 1987 No. 315, S.R. 1988 No. 64, S.R. 1988 No. 167, S.R. 1988 No. 363, S.R. 1989 No. 25 and S.R. 1989 No. 181

(48) 1950 c. 33 (N.I.)

(49) 1956 c. 22 (N.I.)

(50) 1967 c. 3 (N.I.)

(51) 1993 c. 49 as amended by S.I. 1995/3213 (N.I. 22)

(52) S.I. 1986/594 (N.I. 3)

(53) 1968 c. 34 (N.I.): Section 180(1) was amended by S.I. 1995/755 (N.I. 2) Article 185(1) and paragraph 53 of Schedule 9

## Part II

### Employments Pensionable on Election

7. A teacher of a kind other than is specified in Part I who—
- (a) is employed by an education and library board and with the agreement of the Department and his employer, elects within 6 months of the commencement of his employment; or
  - (b) is employed by a person or body in respect of whose expenditure for the purpose for which he is employed grants are made either by the Department or by an education and library board and, with the agreement of the Department and his employer, elects within 6 months of the commencement of his employment; or
  - (c) immediately before 1st April 1987 was a Mental Health Officer within the meaning of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1984<sup>(54)</sup> and was transferred to the employment of an education and library board on that date under the Education (Transfer of Officers) Scheme 1987<sup>(55)</sup> and elects within six months of the date of transfer.
8. An organiser who is employed as youth and community worker, either by an education and library board for the purpose of its functions under Article 37 of the Education and Libraries (Northern Ireland) Order 1986 or by a body in respect of whose expenditure grants are made by an education and library board acting in the exercise of those functions, who is accepted by the Department for the purpose of this Schedule and who, with the consent of his employer, elects within 6 months of the commencement of his employment.
9. An organiser, not falling within paragraph 8, in the employment of—
- (a) an education and library board; or
  - (b) a person or body other than an education and library board in respect of whose expenditure grants are paid by the Department; who is accepted by the Department for the purposes of this Schedule and who elects within 3 months of the commencement of his employment.
10. In this Schedule “elects” means elects by notice in writing to the Department that the employment mentioned shall be pensionable employment.

#### SCHEDULE 3

Regulations C3(4) and C6(3), Schedule 4  
paragraph 8 and Schedule 5 paragraph 6

### Maximum Length of Additional Periods

1.—(1) Subject to paragraph 2, the maximum length of the period in respect of which an election may be made under regulation C3 or C6 is

**A – B,**

where—

A is the length of time specified in the second column of the Table opposite the person’s adjusted age in the first column of the Table; and

B is the length of any additional period already purchased or in course of being purchased by him.

<sup>(54)</sup> S.R. 1984 No 336 to which there are amendments not relevant to these Regulations

<sup>(55)</sup> S.I. 1987/167 (N.I. 2)

**TABLE**

<i>Adjusted age</i>	<i>Length of time</i>
Under 50	30 years
50 and under 51	23 years
51 and under 52	16 years
52 and under 53	9 years
53 and under 54	2 years
54 and over	Twice the difference in days between the adjusted age and 55 years

(2) A person's adjusted age—

- (a) if he has continued in pensionable employment since the start of his first such employment and has not been credited with reckonable service on the receipt of a transfer value in respect of comparable service, is his age at the start of his first pensionable employment; and
- (b) in any other case, is

**C – D,**

where—

C is his age at the start of his most recent pensionable employment; and

D is the total of the time he had then spent in pensionable employment and the length of any reckonable service with which he has been credited on the receipt of a transfer value in respect of comparable service.

2.—(1) This paragraph applies to a person who at the start of his most recent pensionable employment was entitled in respect of a former employment to material benefits, whether or not they had then become payable.

(2) Material benefits comprise any benefits by way of pension, allowance, lump sum or gratuity whose actuarial equivalent as an annuity for life from the age of 60 would be more than £260 a year.

(3) Where this paragraph applies and the number of years calculated in accordance with subparagraph (4) is lower than the number specified against the person's adjusted age in the Table in paragraph 1(1) that paragraph applies with the substitution of that lower number as "A".

(4) The number of years is the highest one that secures that

**E + F + G**

where—

E is the actuarial equivalent as an annuity for life from the age of 60 of any material benefits;

F is the actuarial equivalent as such an annuity of the notional retirement lump sum;

G is the annual amount of the notional pension; and

H is two thirds of the notional average salary.

(5) The notional retirement lump sum, pension and average salary—

- (a) where the election is made before the person attains the age of 60, are those resulting from the assumptions that he continues in pensionable employment until that age and then

becomes entitled to retirement benefits and that the salary scale applicable at the date of the election continues to apply; and

- (b) where the election is made after the person has attained the age of 60, are those resulting from the assumptions that he ceased to be in pensionable employment on his 60th birthday and then became entitled to retirement benefits.

3.—(1) This paragraph applies where a person—

- (a) has elected to pay additional contributions under regulation C3; or  
(b) has continued to pay additional contributions by virtue of regulation C5(1) (elections made before 1st December 1982),

and before attaining the age of 60 and before the end of the period during which they were to be paid he ceased to be in full-time pensionable employment, otherwise than by reason of his death or his becoming incapacitated or becoming entitled to retirement benefits by virtue of regulation E4(7) (redundancy, etc).

(2) Where this paragraph applies, any right to elect to make a lump sum payment may be exercised only to the extent that it does not result in the addition to the service that he would otherwise have been entitled to count as reckonable service of more than—

$$\left( A \times \frac{B}{C} \right) - D$$

where—

A is the longest period in respect of which he could have elected to pay the additional contributions;

B is the length of his reckonable service, excluding any past period reckonable by virtue of additional contributions, when he ceased to be in full-time pensionable employment;

C is the total of B and the period beginning at the cessation of full-time pensionable employment and ending immediately before his 60th birthday; and

D is the length of the past period or periods of reckonable service at the time of the cessation of full-time pensionable employment by virtue of all additional contributions.

#### SCHEDULE 4

Regulations C3(2), (3), (4) and (6),  
C7(6), C15(1), D3(1) and (2) and E3(4),  
Schedule 5 paragraph 3, Schedule 7  
paragraphs 1, 2, 3, 5 and 7 and Schedule 9  
paragraph 16

### **Additional Contributions for past period**

#### Part I

#### Method A

1.—(1) In this Part—

“the contribution period” means the period specified under regulation C3(9)(c).





4.—(1) At any time during the contribution period the person may, subject to paragraph 2, by giving written notice to the Department elect to shorten it or, if he has already made one or more such elections, to shorten it further.

(2) An election under this paragraph—

- (a) has effect only if the Department notifies the person in writing that it has been accepted; and
- (b) on acceptance, has effect as from the first day of the month following the date of its acceptance by the Department (“the effective date”).

(3) From the effective date Table 1 in paragraph 3 applies with the substitution—

- (a) for the person’s age at the date of the principal election, of his age at the date when notice of the election under this paragraph was given;
- (b) for the number of years in the contribution period, of the number of years after the effective date in the shortened period; and
- (c) for the number of years in the past period, there shall be substituted that number multiplied by

$$C - \left( C \times \frac{D}{E} \right),$$

where—

C is the number of years in the past period;

D is the number of years in the contribution period up to the effective date; and

E is the number of years in the contribution period.

5.—(1) At any time during the contribution period the person may by giving written notice to the Department elect to reduce the rate at which the additional contributions are payable.

(2) An election under this paragraph shall specify whether the reduced rate is to be paid—

- (a) in respect of the balance of the contribution period, specified in the principal election, after the election under this paragraph has effect in accordance with sub-paragraph (3); or
- (b) for a particular period, specified in the election, extending beyond the contribution period during which additional contributions were to be paid in respect of the past period specified in the principal election.

(3) An election under this paragraph—

- (a) has effect only if the Department notifies the person in writing that it has been accepted; and
- (b) on acceptance, has effect as from the first day of the month following the date of its acceptance by the Department.

(4) Calculations relating to any change in the amount of reckonable service to which the person will become entitled, or to any change in the contribution period, resulting from an election under the paragraph shall be made on an actuarial basis.

6.—(1) Where—

- (a) the person is in pensionable employment at the end of the contribution period;
- (b) the principal election has not ceased to have effect under paragraph 7; and

- (c) at any time during the contribution period the person has been in part-time pensionable employment,

he may at any time before he becomes entitled to payment of retirement benefits by giving written notice to the Department elect to make an additional lump sum contribution determined in accordance with sub-paragraph (2) (so that paragraph 2 of Schedule 7 shall apply).

(2) The additional lump sum contribution referred to in this paragraph is such sum as would be payable under Part II in order to count as reckonable service a period equivalent to the difference between the length of reckonable service arising from the contribution period and the length of such service if the person had been in full-time employment throughout the contribution period.

7.—(1) Subject to sub-paragraph (2), if the person—

- (a) before the end of the contribution period ceases to be in pensionable employment; and  
(b) does not again enter pensionable employment within one month and before becoming entitled to retirement benefits,

the principal election ceases to have effect.

(2) Unless he receives a refund of contributions under regulation C9, he may—

- (a) if he became entitled to payment of retirement benefits on ceasing to hold his employment, on or after applying for them and before receiving a retirement lump sum; or  
(b) in any other case, within 3 months after the end of his employment,

by giving written notice to the Department make an election under paragraph 8 or 9.

(3) If the payment referred to in paragraph 8, or, as the case may be, paragraph 9 is not made within the period allowed in sub-paragraph (2) the election shall cease to have effect.

8.—(1) An election under this paragraph may be made when the person has been in full-time pensionable employment throughout the contribution period.

(2) An election under this paragraph is an election to complete the payment of additional contributions (so that paragraph 2 of Schedule 7 shall apply) by making a lump sum payment which shall be determined in accordance with sub-paragraph (3), (4) or (6) as the case may be.

(3) Where he had not attained the age of 60 when he ceased to hold his employment, the amount of the payment is, subject to sub-paragraph (4) and to paragraph 3 of Schedule 3, the actuarial equivalent, when the employment ended, of the additional contributions that would have been payable for the remainder of the contribution period.

(4) Subject to sub-paragraph (5) where—

- (a) when the person ceased to hold his employment he had become incapacitated and had not attained the age of 60; and  
(b) he would have attained that age before the end of the contribution period,

the amount of the payment is, subject to paragraph 3 of Schedule 3, the actuarial equivalent, when the employment ended, of the additional contributions that would have been payable after he attained that age.

(5) Sub-paragraph (4) does not apply in a case where the declaration required by regulation C3(9) (d) was not made in good faith.

(6) Where the person had attained the age of 60 when he ceased to hold his employment, the amount of the payment is, subject to paragraph 3 of Schedule 3,

**E × F,**

where—

E is the amount of the additional contributions for one year at the rate at which they were last payable; and

F is the multiplier ascertained from, or where the remainder of the contribution period is not an exact number of years, by extrapolation from Table 2.

**TABLE 2**

<i>Years remaining in contribution period</i>	<i>Multiplier</i>
1	0.989
2	1.956
3	2.902
4	3.827
5	4.732
6	5.617
7	6.482
8	7.328
9	8.156
10	8.965

9.—(1) An election under this paragraph may be made where the person has been in part-time pensionable employment at any time during the contribution period.

(2) An election under this paragraph may be either—

- (a) an election to make a payment such that the person will be entitled to count as reckonable service the number of years which he would have been entitled to count if he had been in full-time pensionable employment throughout such of the contribution period as had elapsed before he ceased to be in pensionable employment (so that paragraph 3 of Schedule 7 will apply accordingly);
- (b) an election to complete payment of additional contributions as if he had been in full-time pensionable employment from the date on which he ceased to be in pensionable employment to the end of the contribution period (so that paragraph 3 of Schedule 7 will apply accordingly); or
- (c) an election to complete payment of additional contributions as if he had been in full-time pensionable employment throughout the contribution period (so that paragraph 2 of Schedule 7 will apply accordingly),

in each case by making a lump sum payment.

(3) Where the election is made under sub-paragraph (2)(a) the amount of the lump sum payment shall be such amount as would be payable under Part II in order to count as reckonable service the difference between the length of reckonable service arising from such of the contribution period as had elapsed before the person ceased to be in pensionable employment and the length of such service if the person had been in full-time pensionable employment throughout that period.

(4) Where an election is made under sub-paragraph (2)(b) the amount of the lump sum payment is one of the following amounts as appropriate—

- (a) the amount referred to in paragraph 8(3) on the assumption that the person would have been in full-time pensionable employment for the remainder of the contribution period;

- (b) the amount referred to in paragraph 8(4) on the assumption that the person would have been in full-time employment during such part of the contribution period as would have fallen after he attained the age of 60; or
- (c) the amount referred to in paragraph 8(6) modified (in a case where the person was employed part-time immediately before he ceased to be in pensionable employment) such that in place of the definition of E there is substituted the following definition—

“E is the amount of the additional contributions for one year at the rate at which they would have been last payable on the assumption that the person would have been in full-time employment”.

(5) Where an election is made under sub-paragraph (2)(c) the amount of the lump sum payment is the aggregate of the amounts referred to in sub-paragraphs (3) and (4).

(6) An election under this paragraph shall state whether it is an election under head (a), under head (b) or under head (c) of sub-paragraph (2).

10. Where paragraph 7 has become applicable and the person is entitled to a retirement lump sum which is smaller than the payment he could elect to make under that paragraph, he may instead elect, in the same way and during the same period, to make a payment under this paragraph of a lump sum equal to the retirement lump sum (so that paragraph 7 of Schedule 7 will apply accordingly).

11. Any retirement lump sum to which the person is entitled may, subject to paragraph 12(2)(d), be set off in whole or part against any payment to be made under paragraph 8, 9 or 10.

12.—(1) This paragraph applies—

- (a) where paragraph 7 has become applicable because the person died while in pensionable employment; or
- (b) where he dies within 3 months after ceasing to be in pensionable employment without having made an election under paragraph 8 or 9,

and another person (“the pensioner”) is entitled under regulation E26 to a long-term pension in respect of him.

(2) Where this paragraph applies—

- (a) the person shall be treated as having ceased to hold the employment when incapacitated;
- (b) any election that could have been made under paragraph 8 or 9 may, within 3 months after the death, be made by the pensioner, or in the case of a child by a person acting on his behalf;
- (c) if any payment due by virtue of such an election is not made within 3 months after the death the election ceased to have effect; and
- (d) a terminal sum may be set off against such a payment only to the extent that the person entitled to it consents.

## Part II

### Method B

13.—(1) Subject to paragraphs 14 to 16, the additional contributions consist of a lump sum of

$A \times B \times C$ ,

where—

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*Status: This is the original version (as it was originally made). Northern Ireland Statutory Rules are not carried in their revised form on this site.*

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A is the length of the past period (that is to say, the period specified under regulation C3(9)(a) or (12)(b), expressed in years and any fraction of a year;

B is the annual rate of the person's contributable salary at the date on which notice of the election was given; and

C is the percentage ascertained from Table 3.

**TABLE 3**

<i>Age at date of election</i>	<i>Percentage</i>
under 23	21.08
24	20.71
25	20.38
26	20.08
27	19.71
28	19.38
29	18.93
30	18.52
31	18.14
32	17.79
33	17.47
34	17.44
35	17.41
36	17.38
37	17.45
38	17.52
39	17.66
40	17.81
41	17.96
42	18.11
43	18.27
44	18.48
45	18.69
46	18.91
47	19.12
48	19.34
49	19.64
50	19.94
51	20.24

<i>Age at date of election</i>	<i>Percentage</i>
52	20.54
53	20.85
54	21.22
55	21.61
56	22.01
57	22.45
58	22.92
59	23.45
60	24.03
61	24.73
62	24.29
63	23.85
64	23.39
65	22.93

(2) If the lump sum is not paid within one month after the date on which the election was accepted the election ceases to have effect.

14.—(1) Subject to paragraphs 15 and 16 and paragraph 16(3) of Schedule 9, this paragraph applies where the person's contributable salary was reduced (whether in consequence of a change of post or otherwise) within—

(a) the year; or

(b) if when notice of the election was given he had attained the age of 57, the period of 3 years, ending immediately before the date on which notice of the election was given.

(2) Where this paragraph applies, paragraph 13 has effect with the substitution as "B" of the annual rate of the contributable salary that would have been payable at that date if he had continued to be employed in the same post and on the same terms.

15. Where notice of the election is received on or after the date of receipt of the application for payment of retirement benefits, paragraph 13 has effect with the substitution as "B" of the person's average salary.

16. Where notice of the election is received when the person is in part-time employment, the references in paragraphs 13 and 14 to contributable salary shall be construed as references to that which would have been payable if the person had at all material times been in comparable full-time employment.

## SCHEDULE 5

Regulations C5(1) and (2) and D3(2) and  
Schedule 7 paragraphs 2, 8, 9 and 10**Additional contributions for past period under earlier provisions**

1.—(1) Subject to sub-paragraphs (2) to (5) and paragraphs 2 to 4, where immediately before 2nd November 1998 contributions remained to be paid under regulation 23 of the 1977 Regulations (Method 1 contributions), they shall continue to be paid at the rate at which, and until the end of the period during which, they were then payable; and during any period of contribution for a current period under regulation C6 or C7 they shall be paid direct to the Department.

(2) Subject to sub-paragraphs (3) to (5), the person paying the contributions may at any time elect to pay them at a higher rate.

(3) The higher rate shall be an integral percentage, not in any case exceeding 9, of his contributable salary.

(4) If he is paying other additional contributions under Part C, or towards the provision of a pension otherwise than under these Regulations, sub-paragraph (3) has effect with the substitution for “9” of the number obtained by deducting from 9 the percentage rate of those other contributions.

(5) An election under this paragraph—

(a) shall be made by written notice given to the Department; and

(b) has effect from the beginning of the month following the month in which the Department gives written notice of its acceptance of the election.

2. Where an election has been made under paragraph 1 the period during which the contributions are to be paid is shortened to the same extent as it would have been if they had continued to be payable under regulation 23 of the 1977 Regulations.

3. If before all the contributions payable under paragraph 1 or 2 have been paid the person ceases to be in full-time pensionable employment or dies in such employment, paragraphs 7, 8 (except sub-paragraph (5)), and 10 to 12 of Schedule 4 (election to pay a lump sum etc) and paragraphs 2(b), 3(b), 4 and 7 of Schedule 7 (reckonable service) apply as if the contributions had been payable under regulation C3, but with the substitution for Table 2 in paragraph 8(6) of Schedule 4 of the following Table:

TABLE

<i>Years remaining in contribution period</i>	<i>Multiplier</i>
1	0.990
2	1.961
3	2.913
4	3.846
5	4.760
6	5.657
7	6.536
8	7.398
9	8.244
10	9.072

<i>Years remaining in contribution period</i>	<i>Multiplier</i>
11	9.884
12	10.681
13	11.461
14	12.227
15	12.977
16	13.713
17	14.434
18	15.141
19	15.835
20	16.514

4.—(1) A person may elect, by giving written notice to the Department, to cease to pay contributions payable by Method 1 but, in the case of such election being made, any additional contributions paid up to that time shall not be refunded.

(2) An election under this paragraph has effect only if the Department notifies the person in writing that it has been accepted.

5.—(1) Subject to sub-paragraph (2) and paragraph 6, where immediately before 2nd November 1998 contributions remained to be paid under regulation 25 of the 1977 Regulations (contributions payable by “Method 3”), they shall continue to be paid until the end of the period for which they were then payable (“the contribution period”).

(2) The contributions shall be paid only while the person—

- (a) is in full-time pensionable employment; or
- (b) is paying additional contributions for a current period under regulation C6 or C7.

6.—(1) If before the end of the contribution period the contributions payable under paragraph 5 cease to be payable otherwise than by reason of the person's—

- (a) dying; or
- (b) becoming incapacitated before attaining the age of 60,

he may by giving written notice to the Department within 3 months after the cessation elect to complete payment of the additional contributions by making a lump sum payment under this paragraph.

(2) Subject to paragraph 3 of Schedule 3, the amount of the payment is the total of the contributions that would have been payable for the remainder of the contribution period.

(3) A lump sum payable under this paragraph may, if he agrees, be set off against any retirement lump sum to which the person is entitled.

7. Where immediately before 2nd November 1998 contributions remained to be paid by virtue of regulation 26 of the 1977 Regulations (certain contributions first paid before 1973) they shall continue to be paid as if the 1977 Regulations had not been revoked.

SCHEDULE 6

Regulations C7(6), C8(1) and (2), C11 (1) and (7), E26 (3), E27 (1) and (2) and E28 (2) and (4) and Schedule 1

**Family Benefits**

**Part I**

**Contributions: Men and Unmarried Women**

1.—(1) In this Part—

“the Fund” means the Teachers' Family Benefits Fund established by regulation 15 of the 1967 Regulations and continued by regulation 15 of the 1972 Family Benefits Rules;

“member” means a man who—

- (a) has been in pensionable employment at any time after 31st March 1972; and
- (b) immediately before 1st April 1972 had service counting for benefit within the meaning of regulation 41 of the 1972 Family Benefits Rules; and
- (c) has not received a repayment of contributions paid by him under the 1967 Regulations or the 1972 Family Benefits Rules; and

“non-member” means a man, other than a member, who—

- (a) has been in pensionable employment at any time after 31st March 1972; and
- (b) is entitled to count a period that ended before 1st April 1972 as reckonable service.

(2) A member’s normal contributions are the contributions paid by him under regulation 27 of the 1967 Regulations or regulation 27 of the 1972 Family Benefits Rules, and his normal service is the period in respect of which he paid them.

(3) A member’s additional contributions are any contributions paid by him under regulation 25 of the 1967 Regulations or under regulation 28 or 29 of the 1972 Family Benefits Rules, and the additional period is the period in respect of which he elected to pay them.

(4) A member’s deemed normal service is two thirds of any service before 1st April 1972 in respect of which the full amount of normal contributions was held in the Fund immediately before that date.

(5) A member’s deemed additional service is—

$$\frac{A \times B}{C}$$

where—

A is the factor ascertained from Table 1;

B is the amount of the additional contributions held in the Fund immediately before 1st April 1972; and

C is the annual rate of his salary at that time.

**TABLE 1**

<i>Age at last birthday before 1st April 1972</i>	<i>Factor</i>
18	23.8

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<i>Age at last birthday before 1st April 1972</i>	<i>Factor</i>
19	26.5
20	29.1
21	31.6
22	34.0
23	36.2
24	38.3
25	40.3
26	42.2
27	44.0
28	45.7
29	47.3
30	48.8
31	50.2
32	51.5
33	52.7
34	53.8
35	54.7
36	55.3
37	55.6
38	55.8
39	55.9
40	55.9
41	55.8
42	55.6
43	55.3
44	55.1
45	54.9
46	54.8
47	54.7
48	54.6
49	54.5
50	54.5
51	54.4
52	54.4

<i>Age at last birthday before 1st April 1972</i>	<i>Factor</i>
53	54.3
54	54.3
55	54.2
56	54.2
57	54.1
58	54.1
59	54.0
60 and over	54.0

(6) A member's credited service is 162 per cent of the total of his deemed normal service and any deemed additional service.

(7) References in this Part to "Method I", "Method II" and "Method III" are references to the Methods so designated in the 1967 Regulations and the 1972 Family Benefits Rules.

2. Paragraphs 3 and 4 have effect subject to paragraph 5.

3.—(1) Subject to sub-paragraph (3), a member who elected to pay additional contributions by Method I or Method II may elect to pay family benefit contributions in respect of all or part of a period not exceeding in length the difference between his credited service and the total of the additional period and his normal service.

(2) Subject to sub-paragraph (3), a member who elected to pay additional contributions by Method III may by an election under this paragraph—

- (a) revoke the earlier election; or
- (b) revoke the earlier election and elect to pay family benefit contributions in respect of the additional period, or part of it; or
- (c) vary the earlier election so as to relate to part only of the additional period and elect to pay family benefit contributions in respect of the remaining part.

(3) The period in respect of which a member elects to pay family benefit contributions as mentioned in sub-paragraph (1) or (2) shall not exceed—

$$A - \left( B + \frac{5 \times (C - B)}{6} \right)$$

where—

A is the length of reckonable service attributable to any period that ended before 1st April 1972;

B is the total length of his normal service and the additional period; and

C is the length of his credited service.

(4) A member may elect to pay family benefit contributions in respect of all or part of any period in respect of which he could have elected, but did not elect, to pay additional contributions.

4. A non-member or an unmarried woman may elect to pay family benefit contributions in respect of the whole or a part of any reckonable service attributable to a period that ended before 1st April 1972.

5.—(1) A man who has become entitled to payment of retirement benefits may not make an election under paragraph 3 or 4.

(2) An election under paragraph 3 or 4 shall—

- (a) be made by written notice given to the Department within the period specified in sub-paragraphs (3) to (5);
- (b) specify the period in respect of which it is made;
- (c) specify the rate at which family benefit contributions are to be paid, which shall comply with paragraph 14(2) and (3);
- (d) has effect from the date on which the notice is received by the Department; and
- (e) except as provided in paragraph 14(4), is irrevocable.

(3) Subject to sub-paragraph (4), a man may make an election under paragraph 3 or 4 only within 6 months after—

- (a) his marriage while in pensionable employment; or
- (b) his returning to pensionable employment after becoming married while not in such employment; or
- (c) where sub-paragraph (4) had become applicable, his returning to pensionable employment after ceasing to be in such employment within 6 months after the previous return; or
- (d) his nomination of a beneficiary under regulation E23,

whichever occurs first.

(4) In the case of—

- (a) a member who was not continuously in pensionable employment for 6 months or more after 30th April 1974 and before 1st October 1977; or
- (b) a non-member who was not continuously in pensionable employment for 6 months or more after 6th December 1973 and before 1st October 1977,

an election under paragraph 3 or 4 may only be made within 6 months after returning to pensionable employment.

(5) A woman may only make an election under paragraph 4 within 6 months after nominating a beneficiary under regulation E23.

6.—(1) Where a person has made an election under paragraph 3(2) or (4) or paragraph 4 the period during which, subject to paragraph 14(7) to (10), the family benefit contributions are to be paid (“the payment period”) shall be ascertained from, or where the period in respect of which the election was made is not an exact number of years, by extrapolation from, Table 2.

*Status: This is the original version (as it was originally made). Northern Ireland Statutory Rules are not carried in their revised form on this site.*

**TABLE 2**

<i>Age on date from which contributions are payable</i>	<i>Period in years for which contributions are to be paid in respect of each year of election period</i>								
<i>Rate of contributions</i>	1%	2%	3%	4%	5%	6%	7%	8%	9%
27 and under	2.90	1.45	0.97	0.73	0.58	0.48	0.41	0.36	0.32
28-37	2.95	1.48	0.98	0.74	0.59	0.49	0.42	0.37	0.33
38-42	3.00	1.50	1.00	0.75	0.60	0.50	0.43	0.375	0.335
43-47	3.05	1.52	1.02	0.76	0.61	0.51	0.435	0.38	0.34
48 and over	3.10	1.55	1.03	0.77	0.62	0.52	0.44	0.39	0.345

(2) Where a man has made an election under paragraph 3(1) the payment period is, subject to paragraph 14(7) to (10), five-sixths of the period ascertained in accordance with sub-paragraph (1).

7.—(1) This paragraph applies where a member who elected to pay additional contributions by Method III has not revoked that election, and he—

- (a) dies in pensionable employment leaving a widow or having nominated a beneficiary under regulation E23; or
- (b) becomes qualified for retirement benefits while married or after nominating a beneficiary.

(2) Where this paragraph applies there shall be deducted from the appropriate terminal sum an amount of—

$$\frac{A \times B}{100} \times \frac{5 \times C}{6}$$

where—

- A is the member’s average salary;
- B is the factor ascertained from Table 3; and
- C is the period calculated in accordance with sub-paragraph (3).

**TABLE 3**

<i>Age</i>	<i>Factor</i>
39 or under	3.5
40 to 49	3.4
50	3.3
51	3.3

<i>Age</i>	<i>Factor</i>
52	3.3
53	3.2
54	3.2
55	3.2
56	3.1
57	3.1
58	3.1
59	3.0
60	3.0
61	3.0
62	3.0
63 and over	2.9

(3) The period is

$$(D + E) - (F + G + H),$$

where—

D is the additional period in respect of which he elected to pay contributions by Method III, together with any additional period for which he elected to pay contributions by Method I or II;

E is his normal service;

F is his credited service;

G is any period or periods for which he has elected to pay family benefit contributions under paragraph 3; and

H is any additional period in respect of which he elected to pay contributions by Method I or II, less his credited service in respect of deemed additional service attributable to contributions so paid, and less any period for which he has elected under paragraph 3(1) to pay family benefit contributions.

8.—(1) Subject to sub-paragraphs (2) and (3), a member or non-member who—

(a) is not in pensionable employment and has become entitled to payment of retirement benefits; and

(b) would otherwise have been able to make an election under paragraph 3 or 4,

may make a corresponding election under this paragraph.

(2) An election under this paragraph—

(a) shall be made by written notice given to the Department within 6 months after the date on which the man became entitled to payment of retirement benefits;

(b) shall specify the period in respect of which it is made; and

(c) is irrevocable.

(3) The family benefit contributions payable as a result of an election under this paragraph consist of a lump sum of—

$$\frac{A}{100} \times (B \times C)$$

where—

A is the annual rate at which his contributable salary was last payable;

B is the length, expressed in years and any fraction of a year, of the period in respect of which the election was made; and

C is the factor ascertained from Table 4,

but where the election made corresponds to one that could have been made under paragraph 3(1), B is reduced by one-sixth.

**TABLE 4**

<i>Age on date of election</i>	<i>Factor</i>
27 and under	2.90
28-37	2.95
38-42	3.00
43-47	3.05
48 and over	3.10

9.—(1) This paragraph applies where—

- (a) a member or non-member dies before becoming entitled to payment of retirement benefits; and
- (b) he has not made an election under paragraph 3 or 4, but could still have done so if he had not died; and
- (c) he leaves a widow.

(2) Where this paragraph applies the widow may, subject to sub-paragraph (3), elect to pay family benefit contributions in respect of a period comprising all or part of so much of the deceased's reckonable service as would otherwise not count in the calculation of family benefits.

(3) An election under this paragraph—

- (a) shall be made by written notice given to the Department within 3 months after the death;
- (b) shall specify the period in respect of which it is made;
- (c) shall result in a total of not less than 2 years' reckonable service counting in the calculation of family benefits; and
- (d) ceases to have effect if the family benefit contributions are not paid within 3 months after its date.

(4) The family benefit contributions payable as a result of an election under this paragraph consist of a lump sum which is the actuarial equivalent of the contributions that would have been payable by the deceased if—

- (a) he had made an election under paragraph 3, or as the case may be paragraph 4, in respect of the same period; and
- (b) notice of that election had been given on the day before his death and had specified as the rate at which family benefit contributions were to be paid the maximum allowed by paragraph 14(2) and (3).

## Part II

### Contributions: Married Women

10.—(1) Subject to sub-paragraph (3) and paragraph 11, a woman in relation to whom the election conditions specified in sub-paragraph (4) are satisfied may elect to pay family benefit contributions in respect of the whole or a part of any reckonable service attributable to a period—

- (a) that ended before 1st April 1972; or
- (b) for which contributions have been paid under regulation C3, C5, C6, or C7

or attributable to the receipt before 6th April 1988 of a transfer value.

(2) Subject to sub-paragraph (3) and paragraph 11, a woman in relation to whom the election conditions specified in sub-paragraph (4) are satisfied may elect to pay family benefit contributions in respect of the whole or a part of any reckonable service not falling within sub-paragraph (1) which is attributable to a period that—

- (a) began after 31st March 1972 and ended before 6th April 1988; and
- (b) would otherwise not count in calculating any pension becoming payable to her widower.

(3) Where an election is made in respect of a part only of any service, the part shall consist of one or more whole years.

(4) The election conditions are that she is married, and either—

- (a) is in pensionable employment; or
- (b) ceased after 5th April 1988 and before 1st September 1989 to be in such employment and immediately became entitled to payment of retirement benefits.

11.—(1) An election under paragraph 10(1) or (2)—

- (a) shall be made by written notice given to the Department within the period specified in sub-paragraphs (3) to (5);
- (b) shall specify the period in respect of which it is made;
- (c) shall state whether the contributions are to be paid by Method A (periodical payments) or by Method B (lump sum);
- (d) if the contributions are to be paid by Method A, shall specify the rate at which they are to be paid, which shall comply with paragraph 14(2) and (3);
- (e) has effect from the date on which the notice is received by the Department; and
- (f) except as provided in paragraph 14(4), is irrevocable.

(2) Where a woman's pensionable employment is part-time, the reference in sub-paragraph (1) (d) to the rate at which contributions are to be paid is a reference to the rate as a percentage of the woman's full-time equivalent salary.

(3) The period within which an election may be made is one of 6 months beginning on the relevant date mentioned in sub-paragraph (4) or (5).

(4) Where paragraph 10(4)(b) applies, the relevant date is 1st March 1989; in any other case, subject to sub-paragraph (5), the relevant date is the first date after 28th February 1989 on which the election conditions were or are satisfied.

(5) If during the period of 6 months beginning on that first date the election conditions ceased or cease to be satisfied, the relevant date becomes the first date on which they were or are again satisfied.

(6) A woman who could make an election under paragraph 10(2) may only make one under paragraph 10(1) if, and at the same time as, she elects under paragraph 10(2) to pay family benefit contributions in respect of the whole of the reckonable service there mentioned.

(7) Where elections are made both under paragraph 10(1) and under paragraph 10(2) they shall specify the same method of payment.

(8) Payment shall not in any case be made by Method A if—

- (a) the payment period would be less than one year; or
- (b) the woman is not in pensionable employment.

12.—(1) Subject to sub-paragraph (2), where payment is to be made by Method A the payment period shall be ascertained from, or where the period in respect of which the election was made is not an exact number of years, by extrapolation from, Table 5.

**TABLE 5**

<i>Rate of contributions</i>	<i>Period in years for which contributions are to be paid in respect of each year of period specified in election</i>	
	<i>Election under paragraph 10(1)</i>	<i>Election under paragraph 10(2)</i>
1%	1.45	0.42
2%	0.69	0.20
3%	0.46	0.14
4%	0.33	0.10
5%	0.27	0.08
6%	0.22	0.07
7%	0.18	0.06
8%	0.16	0.05
9%	0.14	0.04

(2) If the period ascertained in accordance with sub-paragraph (1) (“the Table period”) does not end with the last day of a month, the payment period ends with the last day of the month in which the Table period ends.

(3) Where payment is to be made by Method B the lump sum payable, which shall be paid within 3 months after its amount is notified by the Department, is—

- (a) for each year of service in respect of which an election was made under paragraph 10(1), 1.25 per cent; and
- (b) for each year of service in respect of which an election was made under paragraph 10(2), 0.4 per cent,

of the appropriate amount, and pro rata for any period of less than a year.

(4) In sub-paragraph (3) the appropriate amount is—

- (a) where the woman was in pensionable employment when the election took effect, the annual rate of her contributable salary at that time; and
- (b) in any other case, her average salary.

13.—(1) The widower of a woman who—

- (a) died during the period beginning with and including 6th April 1988 and ending with 31st August 1989 without having made an election under paragraph 10; and
- (b) either was in pensionable employment when she died or had ceased during that period to be in such employment,

may make a corresponding election under this paragraph.

(2) A married woman who—

- (a) ceased to be in pensionable employment during the period mentioned in sub-paragraph (1); and
- (b) on ceasing to be in such employment did not immediately become entitled to payment of retirement benefits,

may make a corresponding election under this paragraph if the conditions in sub-paragraph (3) are satisfied.

(3) The conditions referred to in sub-paragraph (2) are that—

- (a) she did not again enter pensionable employment; and
- (b) she has become entitled to payment of retirement benefits.

(4) Where a woman to whom sub-paragraphs (2) and (3) would otherwise have applied dies before becoming entitled to payment of retirement benefits, her widower may make a corresponding election under this paragraph.

(5) An election under this paragraph shall—

- (a) be made by written notice given to the Department within the appropriate period;
- (b) specify the period in respect of which it is made; and
- (c) be treated as an election to make payment by Method B.

(6) The appropriate period referred to in sub-paragraph (5)(a) is—

- (a) where sub-paragraph (1) applies, the period beginning with and including 1st March 1989 and ending with 31st August 1989;
- (b) where sub-paragraphs (2) and (3) apply, 6 months from the date on which she becomes entitled to payment of retirement benefits; and
- (c) where sub-paragraph (4) applies, 3 months from the date of her death.

## Part III

### Contributions: Common Provisions

14.—(1) This paragraph applies where—

- (a) an election is made under paragraph 3 or 4; or
- (b) an election is made under paragraph 10 to pay family benefit contributions by Method A.

(2) The rate at which family benefit contributions are to be paid, and any higher rate substituted by an election under sub-paragraph (4), shall be an integral percentage, not in any case exceeding 9, of the person's contributable salary.

(3) In the case of a person who is paying additional contributions under regulation C3 or C5, or towards the provision of a pension otherwise than under these Regulations, sub-paragraph (2) has effect with the substitution for "9" of the number obtained by deducting from 9 the percentage rate of those contributions.

(4) The election may at any time be varied by an election to pay the family benefit contributions at a specified higher rate.

(5) An election under sub-paragraph (4) shall be made by written notice given to the Department, and has effect from the first day of the month following that in which the notice is received by it.

(6) The payment period begins on the first day of the month following that in which it is notified to the person by the Department.

(7) If after the start of the payment period there is an interval of more than 30 days during which the person is not in pensionable employment or paying additional contributions under regulation C6 or C7—

- (a) the interval is not part of the payment period; but
- (b) the end of the payment period is postponed by the length of the interval.

(8) If after the start of the payment period the person becomes employed in part-time pensionable employment, the length of the payment period is increased by so much of the period of part-time employment as does not count as reckonable service.

(9) If the original election is varied by one made under sub-paragraph (4) (“the further election”) a new payment period begins on the effective date of the further election; the length of the new payment period is—

$$A - \left( \frac{B}{C} \times D \right),$$

where—

A is what the length of the payment period would have been if the increased rate had been specified in the original election;

B is the rate specified in the original election;

C is the increased rate; and

D is the period from the start of the payment period to the effective date of the further election.

(10) The contributions—

- (a) are payable from the start of the payment period;
- (b) continue to be payable while the person is in pensionable employment or paying additional contributions under regulation C6 or C7; and
- (c) cease to be payable if he dies or becomes entitled to retirement benefits before the end of the payment period.

15.—(1) The paragraph—

- (a) applies where family benefit contributions to which paragraph 14 applies cease to be payable before the end of the payment period; and
- (b) has effect subject to paragraph 16.

(2) Where the person paying the contributions dies before attaining the age of 60, or becomes entitled to payment of retirement benefits by virtue of regulation E4(4) (incapacity)—

- (a) contributions shall be treated as having been paid in respect of the whole of the period in respect of which the election was made; but
- (b) if part of the payment period falls after his 60th birthday, the actuarial equivalent of the contributions that would have been payable during that part shall be deducted from the appropriate terminal sum.

(3) Where the person dies, or becomes entitled to payment of retirement benefits, after attaining the age of 60—

- (a) contributions shall be treated as having been paid in respect of the whole of the period in respect of which the election was made; but
- (b) there shall be deducted from the appropriate terminal sum an amount of—

$$\left( A \times \frac{B}{100} \right) \times C$$

where—

A is the annual rate at which his contributable salary was last payable;

B is the rate at which the contributions were last payable; and

C is the multiplier ascertained from, or if the remainder of the payment period is not an exact number of years, by extrapolation from, Table 6.

**TABLE 6**

<i>Years in remainder of payment period</i>	<i>Multiplier</i>
1	0.990
2	1.961
3	2.913
4	3.846
5	4.760
6	5.657
7	6.536
8	7.398
9	8.244
10	9.072
11	9.884
12	10.681
13	11.461
14	12.227
15	12.977
16	13.713
17	14.434
18	15.141
19	15.835
20	16.514

(4) Where the person becomes entitled to payment of retirement benefits by virtue of regulation E4(7) (redundancy, etc)—

- (a) he may, by written notice given to the Department within 3 months after the end of his pensionable employment, elect to pay a lump sum which is the actuarial equivalent of the contributions that would have been payable during the remainder of the payment period;
- (b) if he does so elect, on payment of the lump sum contributions shall be treated as having been paid in respect of the whole of the period in respect of which the original election was made; and
- (c) if he does not so elect, contributions shall be treated as having been paid in respect of—

$$D \times \frac{E}{F},$$

where—

D is the period in respect of which the original election was made;

E is the period during which contributions were paid; and

F is the payment period.

16. Where—

- (a) a deduction has fallen to be made under paragraph 15(2) or (3) or an election has been made under paragraph 15(4); and
- (b) there is then a retrospective increase in the person's contributable salary; and
- (c) the consequent recalculation of the amount of the deduction or lump sum and of the appropriate terminal sum results in a greater increase in the amount of the deduction or lump sum than in the terminal sum,

the person, or as the case may be his widow or widower or a beneficiary nominated under regulation E23, may notify the Department in writing that the amount of the deduction made or lump sum payable is not to be increased.

#### SCHEDULE 7

Regulation D3(2), Schedule 4 paragraphs 6, 8, 9 and 10 and Schedule 5 paragraph 3

### **Reckonable service arising from payment of additional contributions in respect of past periods**

1.—(1) In this Schedule—

“full-time contributor” means a person who has paid or is paying additional contributions for a past period under Part I of Schedule 4 and has not been in part-time pensionable employment during any part of the contribution period;

“part-time contributor” means a person who has paid or is paying additional contributions for a past period under Part I of Schedule 4 and has been in part-time pensionable employment at some time during the contribution period;

“the contribution period” means the period specified under regulation C3(9)(c);

“the past period” means the period specified under regulation C3(9)(a);

“the principal election” means the election under regulation C3(2);

(2) Any reference in this Schedule, in relation to a part-time contributor to a period which a person is entitled to count as reckonable service arising from the contribution period or any part of it

is a reference to a period calculated by applying the formula in regulation D1(2) to the contribution period or part of it.

2. Where a person—

- (a) is a full-time contributor who has completed payment of additional contributions;
- (b) is a full-time contributor who ceased to be in pensionable employment before the end of the contribution period and has made a payment under paragraph 8(3) or (4) of Schedule 4; or
- (c) is a part-time contributor who was in pensionable employment at the end of the contribution period, whose principal election has not ceased to have effect under paragraph 7 of Schedule 4 and who has made a payment under paragraph 6(1) of Schedule 4; or
- (d) is a part-time contributor who ceased to be in pensionable employment before the end of the contribution period and has made a payment under paragraph 9(5) of Schedule 4; or
- (e) has completed payment of additional contributions in accordance with Schedule 5,

he shall be entitled to count the past period as reckonable service.

3.—(1) This paragraph applies when a person—

- (a) is a part-time contributor who was in pensionable employment at the end of the contribution period, whose principal election has not ceased to have effect under paragraph 7 of Schedule 4 and who has not made a payment under paragraph 6 of Schedule 4;
- (b) is a full-time or part-time contributor who ceases to be in pensionable employment before the end of the contribution period, does not again enter such employment within one month and before becoming entitled to payment of retirement benefits and does not make any payment under paragraph 8, 9 10 or 12 of Schedule 4; or
- (c) is a part-time contributor who ceases to be in pensionable employment before the end of the contribution period and makes a payment under paragraph 9(3) or (4) of Schedule 4,

and where neither paragraphs 4 nor 5 apply.

(2) The person is entitled to count as reckonable service

$$\frac{A \times C}{B},$$

where—

- A is the past period;
- B is the contribution period; and
- C is determined in accordance with sub-paragraph (3).

(3) The value of C is as follows:—

- (a) where the person falls within sub-paragraph (1)(a), C is the period which the person is entitled to count as reckonable service which arises from the contribution period;
- (b) where the person falls within sub-paragraph (1)(b) and is a full-time contributor, C is so much of the contribution period as has elapsed when the pensionable employment ended;
- (c) where the person falls within sub-paragraph (1)(b) and is a part-time contributor, C is the period which the person is entitled to count as reckonable service which arises from so much of the contribution period as has elapsed when the pensionable employment ended;
- (d) where the person falls within sub-paragraph (1)(c) and makes a payment under paragraph 9(3) of Schedule 4, C is so much of the contribution period as has elapsed when the pensionable employment ended;

- (e) where the person falls within sub-paragraph (1)(c) and makes a payment under paragraph 9(4) of Schedule 4, C is the aggregate of—
- (i) the period which the person is entitled to count as reckonable service which arises from so much of the contribution period as has elapsed when the pensionable employment ended; and
  - (ii) the period from the date when the pensionable employment ended to the end of the contribution period.

4.—(1) This paragraph applies to a full-time or part-time contributor, who falls within paragraph 3(1)(b), and who, when his pensionable employment ended, was incapacitated and had not attained the age of 60.

- (2) In this paragraph A and B have the same meanings as in paragraph 3.
- (3) If the person was a full-time contributor, he is entitled to count as reckonable service—
- (a) where the contribution period would not have expired before he attained the age of 60—

$$A \times \frac{D}{B}$$

where

D is the period from the start of B to his 60th birthday; or

- (b) in any other case, A.
- (4) If the person was a part-time contributor, he is entitled to count as reckonable service—
- (a) where the contribution period would not have expired before he attained the age of 60—

$$A \times \frac{D}{B}$$

where—

D is the aggregate of—

- (i) the period which he is entitled to count as reckonable service which arises from so much of the contribution period as had elapsed when the pensionable employment ended; and
- (ii) the period from the date when the pensionable employment ended to his 60th birthday; or

- (b) in any other case

$$A \times \frac{E}{F}$$

where—

E is the period which he is entitled to count as reckonable service which arises from so much of the contribution period as had elapsed when the pensionable employment ended;

F is so much of the contribution period as elapsed when the pensionable employment ended.

5. If a person had elected under paragraph 4 of Schedule 4 to shorten the contribution period—

- (a) he is in any case entitled to count as reckonable service

$$\frac{A \times H}{G}$$

where

G is the original contribution period and H is so much of it as had elapsed by the effective date of the election; and

- (b) paragraphs 3 and 4 have effect with the substitution—  
(i) as A, of

$$A - \left( \frac{A \times H}{G} \right),$$

- (ii) as B, of the shortened contribution period;  
(iii) as D, of the period from the effective date of the election to his 60th birthday; and  
(c) the definition of C in paragraph 3(3) shall have effect with the substitution for the words “the contribution period” of the words “the shortened contribution period”.

6.—(1) This paragraph applies where a full-time or part-time contributor revokes his election made under regulation C3 in accordance with paragraph (10) of that regulation.

- (2) Where this paragraph applies, the person is entitled to count as reckonable service—

$$\frac{A \times C}{B}$$

where—

A is the past period;

B is the contribution period; and

C is—

- (a) where the person is a full-time contributor, so much of B as had elapsed by the first day of the month following the date on which the revocation of that election has effect in accordance with regulation C3(13); and  
(b) where the person is a part-time contributor, the period which the person is entitled to count as reckonable service which arises from so much of the contribution period as had elapsed by the date referred to in head (a).

7.—(1) This paragraph applies where a lump sum equal to the retirement lump sum that would otherwise have been receivable is paid under paragraphs 10 to 12 of Schedule 4.

- (2) Where this paragraph applies, the person is entitled to count as reckonable service—

- (a) the period he would have been entitled to count under paragraph 3 if the lump sum had not been paid; and  
(b) a period of years—

$$\frac{\frac{A}{B} - \frac{3 \times D}{C}}{80}$$

where—

A is the retirement lump sum;

B is the lump sum that would have been payable under paragraph 8 or 9(5) of Schedule 4;

C is so much of the past period as he is not entitled to count under head (a); and

D is his average salary.

8.—(1) This paragraph applies where a person paying additional contributions for a past period in accordance with Method 1, as described in paragraph 1 of Schedule 5, elects to cease to pay such contributions in accordance with paragraph 4 of that Schedule.

(2) Where this paragraph applies, the person is entitled to count as reckonable service—

$$A \times \frac{C}{B}$$

where—

A is the past period;

B is the contribution period; and

C is so much of B as had elapsed by the date on which the election has effect in accordance with paragraph 4(2) of Schedule 5.

9.—(1) This paragraph applies where a person is continuing to pay contributions in accordance with Method 3 as described in paragraph 5 of Schedule 5 and—

(a) before the end of the contribution period they cease to be payable; and

(b) he does not make a lump sum payment under paragraph 6 of Schedule 5. (1) Subject to sub-paragraph (3), the person is entitled to count as reckonable service where—

$$A \times \frac{B}{C}$$

where—

A is the period in respect of which the contributions were being paid;

B is the number of instalments he has paid; and

C is the number of instalments he would have paid if the contributions had not ceased to be payable.

(3) Where the contributions cease to be payable by reason of his—

(a) dying; or

(b) becoming incapacitated before attaining the age of 60,

he is entitled to count as reckonable service the whole of the period in respect of which the contributions were being paid.

10.—(1) This paragraph applies where a person is, in accordance with paragraph 7 of Schedule 5, continuing to pay contributions which he began to pay before 1973—

- (a) before attaining the age of 60 ceases to be in pensionable employment; and
  - (b) does not then become entitled to payment of retirement benefits under regulation E4(4) or to a short service incapacity grant under regulation E17.
- (2) The person is entitled to count as reckonable service

$$A \times \frac{B}{C},$$

where—

- A is the period in respect of which contributions are being paid;
- B is the period during which they were paid; and
- C is the period from the start of B to his 60th birthday.

#### SCHEDULE 8

Regulations E3 (2) and (5) and E8(1)

##### **Periods making up qualifying period**

1. A period of pensionable employment.
2. A period counting as reckonable service by virtue of regulation D3 (which applies where additional contributions have been paid for a past period) or regulation D4 (which applies where additional contributions have been paid for a current period).
3. A period of service or employment in respect of which a transfer value has been accepted by the Department.
4. A period of employment in comparable service.

#### SCHEDULE 9

Regulations E10, G3 and H1(1),  
Schedule 4 paragraph 14 and Schedule 10  
paragraph 1

##### **Modified application in certain cases**

### **Part I**

#### **National Insurance Modification of pensions**

1. In this Part—
  - “the Act” means the National Insurance Act (Northern Ireland) 1966(56);
  - “interchange rules” means interchange rules made by the Department under previous provisions;
  - “non-participating employment” has the meaning assigned to it by section 55(1) of the Act;

“part-time teacher” means a person who has elected under regulation B1(4) that his part-time employment is to be pensionable employment;

“retired teacher” means a person who has ceased to be in pensionable employment and has attained state pensionable age.

2.—(1) A retirement pension payable in the case of a retired teacher who—

- (a) by virtue of the Modification Regulations or of interchange rules was subject to the modifications of the Acts of 1950 to 1967 made by those Regulations and applicable to new entrants within the meaning of those Regulations; or
- (b) not being an existing teacher within the meaning of the Modification Regulations or a teacher in whose case by virtue of interchange rules those Regulations applied as they applied in the case of such an existing teacher, entered pensionable employment on or after the 1st April 1980,

shall be reduced by an amount calculated by multiplying £1·70 by his reckonable service on or after 1st July 1948 but before 1st April 1980; expressed in years and any fraction of a year.

(2) In the case of a retired teacher—

- (a) who was last in pensionable employment before 1st April 1980; and
- (b) whose retirement pension is one to which he became entitled by virtue of regulation E4(4) or (5),

any additional period of reckonable service taken into account under regulation E8(2) is deemed for the purposes of sub-paragraph (1) to be such service as is there mentioned.

(3) Where the retired teacher before 1st April 1980 elected for the purposes of regulation 21 of the 1977 Regulations to purchase added years, those added years are deemed for the purposes of sub-paragraph (1) to be such reckonable service as is there mentioned.

(4) Sub-paragraph (1) applies not only in the case of such a retired teacher as is there mentioned but also in the case of a retired teacher to whom paragraph 2(1) of Schedule 8 to the 1977 Regulations as originally made, did not apply if the Department is satisfied that the contributions paid by him before 1st April 1980 were modified on the assumption that the said paragraph 2(1) did apply in his case.

3.—(1) This paragraph applies to a retired teacher who—

- (a) by virtue of the Modification Regulations or of interchange rules, was subject to the modifications of the Act of 1950 to 1967 made by those Regulations and applicable to existing teachers within the meaning of those Regulations; or
- (b) before 1st April 1980 paid contributions at a reduced rate by virtue of an election under paragraph 2(1)(c) of Schedule 8 to the 1977 Regulations, as originally made.

(2) A retirement pension payable to such a retired teacher shall be reduced in respect of his reckonable service after the relevant date but before 1st April 1980 by the amount calculated by multiplying by such reckonable service, expressed in years and a fraction of a year, the sum specified in column 2 (or column 3 in the case of a woman) of Table 1 opposite his age at the date of modification for the purposes of the Modification Regulations.

**TABLE 1**

<i>Age at date of modification</i>	<i>Yearly reduction of retirement pension for each completed year of reckonable service after date of modification</i>	
	<i>Men</i>	<i>Women</i>
(1)	(2)	(3)
20 or under	1.70	1.70
21	1.65	1.60
22	1.60	1.53
23	1.55	1.45
24	1.50	1.37
25	1.47	1.30
26	1.45	1.23
27	1.43	1.17
28	1.40	1.13
29	1.35	1.07
30	1.33	1.03
31	1.30	0.97
32	1.27	0.95
33	1.25	0.93
34	1.23	0.90
35	1.20	0.87
36	1.17	0.85
37	1.15	0.83
38	1.13	0.80
39	1.10	0.77
40	1.07	0.75
41	1.07	0.73
42	1.05	0.73
43	1.03	0.70
44	1.00	0.70
45	0.97	0.67
46	0.95	0.65
47	0.95	0.65
48	0.93	0.63
49	0.93	0.63
50 and over	0.93	0.60

- (3) The relevant date for the purposes of sub-paragraph (2) is—
- (a) in relation to a retired teacher to whom this paragraph applies by virtue of sub-paragraph (1)(a), the date which was in relation to him the date of modification for the purposes of the Modification Regulations; and
  - (b) in relation to a retired teacher to whom this paragraph applies by virtue of sub-paragraph (1)(b), the first day of the month next following that in which the election mentioned in that sub-paragraph was made.
- (4) In the case of a retired teacher—
- (a) who was last in pensionable employment before 1st April 1980; and
  - (b) whose retirement pension is one to which he became entitled by virtue of regulation E4(4) or (5),

any additional period of reckonable service taken into account under regulation E8(2) shall be deemed for the purposes of sub-paragraph (2) to be such service as is there mentioned.

4. For the purposes of paragraphs 2 and 3 the reckonable service of a retired teacher is his effective reckonable service.

5. If, in calculating the amount of a retirement pension, there is taken into account any period of employment after 2nd April 1961 and before 6th April 1975 which was not non-participating employment the pension is, except as provided in paragraphs 7 and 8, reduced, for each year of such period, and proportionately for part of a year by the appropriate amount specified in the following Table 2:—

**TABLE 2**

<i>Annual rate of salary during period</i>	<i>Reduction in retirement pension for each whole year of period</i>			
	<i>From 3rd April 1961 to 5th January 1964</i>		<i>From 6th January 1964 to 5th April 1975</i>	
	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>
	£	£	£	£
Not exceeding £468	nil	nil	nil	nil
Over £468 but not exceeding £520	0·19	0·16	0·19	0·16
Over £520 but not exceeding £572	0·58	0·48	0·58	0·48
Over £572 but not exceeding £624	0·96	0·80	0·96	0·80
Over £624 but not exceeding £676	1·35	1·12	1·35	1·12
Over £676 but not exceeding £728	1·73	1·44	1·73	1·44
Over £728 but not exceeding £780	2·12	1·76	2·12	1·76

<i>Annual rate of salary during period</i>	<i>Reduction in retirement pension for each whole year of period</i>			
	<i>From 3rd April 1961 to 5th January 1964</i>		<i>From 6th January 1964 to 5th April 1975</i>	
	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>
	£	£	£	£
Over £780 but not exceeding £832	2·31	1·92	2·51	2·09
Over £832 but not exceeding £884	2·31	1·92	2·90	2·42
Over £884 but not exceeding £936	2·31	1·92	3·29	2·74
Over £936	2·31	1·92	3·48	2·90

6. If, in calculating the amount of a retirement pension, there is taken into account any period of employment after 2nd April 1961 in respect of which a payment in lieu of contributions has been made the retirement pension shall, except as provided in paragraphs 7 and 8, be reduced—

- (a) by £2·31 in the case of a man and by £1·92 in the case of a woman for each year, and proportionately for part of a year, of any period from and including 3rd April 1961 to 5th January 1964; and
- (b) by £3·48 in the case of a man and by £2·90 in the case of a woman for each year, and proportionately for part of a year, of any period from and including 6th January 1964 to 5th April 1975.

7. Where—

- (a) a period of employment of a retired teacher which was not non-participating employment or in respect of which a payment in lieu of contributions had been made is treated as reckonable service by virtue of interchange provisions; and
- (b) the Department is informed of the amount by which his pension under the pension scheme applicable to him before interchange provisions applied to him would have been reduced in respect of that period by reason of graduated retirement benefit payable under the Act or of the method of calculating such reduction,

the retirement pension in respect of that period shall be reduced by that amount or by an amount calculated in accordance with that method, as the case may be, and no reduction shall be made under paragraph 5 or 6 in respect of that period.

8. No reduction in the amount of a retirement pension shall be made under paragraph 5 or 6 in respect of any period which is reckonable service by virtue of regulation D3 or D4.

9. A retirement pension payable to a part-time teacher, so far as it is attributable to any part-time service which was non-participating employment within the meaning of the Act (exclusive of any period of such employment in respect of which a payment in lieu of contributions has been made), shall not be less than the amount required to constitute the benefits in respect of that service equivalent pension benefits.

10.—(1) An annual pension in respect of any such service as is mentioned in paragraph 9 shall be paid to a part-time teacher to whom no retirement pension is payable under regulation E4 if he is in pensionable employment on attaining state pensionable age.

(2) A pension under this paragraph is of the amount required to constitute the benefits in respect of the service equivalent pension benefits and is payable from the day following that on which he ceases to be in pensionable employment or in employment which would, if he had not attained the age of compulsory retirement, be pensionable employment.

(3) Regulation E33(2) (application for payment) applies in relation to a pension payable under this paragraph.

11. A part-time teacher to whom paragraph 10 applies is entitled to be paid a sum equal to the balance of his contributions computed as at the date of repayment in accordance with regulation C10 reduced by half the actuarial value of the pension payable to him under paragraph 10.

12.—(1) Any person who was employed in non-participating employment and attains state pensionable age shall be paid by way of equivalent pension benefits a sum equal to the actuarial value of a retirement pension at the following rate for each year of reckonable service—

	<i>Man</i>	<i>Woman</i>
during the period from and including 3rd April 1961 to 5th January 1964	£2·31	£1·92
during the period from and including 6th January 1964 to 5th April 1975	£3·48	£2·90

but excluding any period of such employment in respect of which—

- (a) a payment in lieu of contributions has been made; or
- (b) any retirement benefits are payable under regulation E4.

(2) If on attaining state pensionable age a person is still in pensionable employment payment shall be deferred until he ceases to be in pensionable employment, or in employment which would be pensionable employment if he had not attained the age of compulsory retirement.

(3) Regulation E33(2) (application for payment) applies in relation to a sum payable under this paragraph.

## Part II

### Employment at Reduced Salary

13. Subject to paragraphs 14 to 19, these Regulations apply as if the person had been one person in relation to pensionable employment (“the earlier employment”) up to the end of his employment at the previous rate and a separate person in relation to pensionable employment (“new employment”) from the start of his employment at the reduced rate, and accordingly apply separately in relation to each of those employments.

14. For the purposes of regulation E3 (qualification for retirement benefits), periods counting towards a qualifying period in relation to one of the employments count also in relation to the other.

15.—(1) For the purposes of regulation E32(2) (limits on reckonable service for calculating benefits), periods counting as reckonable service in relation to one of the employments count also in relation to the other.

(2) Any period excluded by regulation E32(2) is excluded in relation to new employment only.

16.—(1) A period for which the person has, before the first day of new employment, elected to pay additional contributions under regulation C3 does not count as reckonable service in relation to new employment but does, subject to sub-paragraph (2), count in relation to the earlier employment.

(2) An election to pay such contributions by Method A which was made less than 12 months before the first day of new employment ceases to have effect on that day, and any contributions paid in pursuance of it shall be refunded.

(3) If an election to pay such contributions is made on or after the first day of new employment—

- (a) the period to which it relates counts as reckonable service in relation to new employment but does not count in relation to the earlier employment; and
- (b) if the contributions are to be paid by Method B paragraph 14 of Schedule 4 (calculation of lump sum where salary reduced) does not apply.

17.—(1) This paragraph applies if the person becomes entitled to payment of retirement benefits by virtue of regulation E4(4) or (5) (incapacity).

(2) For the purposes of regulation E8 (enhancement) the appropriate period shall be calculated by reference to the aggregate of the period counting as reckonable service in relation to the earlier employment and the period so counting in relation to new employment, and—

- (a) if he becomes entitled to payment of the benefits within 3 years after the start of new employment, the period counting as reckonable service in relation to the earlier employment; or
- (b) in any other case, the period so counting in relation to new employment,

is increased by the appropriate period so calculated.

18.—(1) For the purpose of calculating any death grant under regulation E20 or supplementary death grant under regulation E21 that may become payable in respect of the person—

- (a) the average salary mentioned in regulations E20(2) and E21(2)—
  - (i) if the grant becomes payable within 3 years after the start of new employment, is his average salary in respect of the earlier employment; and
  - (ii) in any other case, is his average salary in respect of new employment;
- (b) the retirement lump sum mentioned in regulation E20(2) is the aggregate of the lump sums that would have become payable as there mentioned in respect of each of the employments, increased in accordance with paragraph 17; and
- (c) the retirement pension mentioned in E21(3) is the aggregate of the retirement pensions paid in respect of each of the employments.

(2) Only one of either kind of grant shall be paid.

19. Regulation E26(7) does not have effect so as to preclude the payment of a children's pension in respect of each of the employments.

SCHEDULE 10

Regulation E11(5)

**Allocation of part of retirement pension**

**Part I**

**Contents of Declaration**

1.—(1) A declaration shall specify—

- (a) the part of the retirement pension allocated; and
- (b) which alternative benefit it is to provide.

(2) The part allocated, which shall be expressed as a whole number of pounds, shall not exceed the lower of—

- (a) one-third of the annual rate of the retirement pension, disregarding any National Insurance modification under Part I of Schedule 9; and
- (b) the amount that would result in the reduction of that rate to less than the rate of, as the case may be, the annuity mentioned in regulation E11(2)(a) or the subsequent annuity mentioned in regulation E11(2)(b),

and shall not be such as to affect any equivalent pension benefits.

(3) The part allocated shall not be such as to cause the retirement pension payable to be less than the guaranteed minimum in relation to employment before 6th April 1997.

**Part II**

**Procedure**

2.—(1) A person who, with a view to making an allocation, gives the Department at least 4 months' notice of his intended retirement is referred to in this Schedule as a "retiring employee".

(2) For the purposes of this Schedule a person's relevant birthday is—

- (a) where retirement benefits become payable by virtue of regulation E4(3) (female early age retirement), her 55th; and
- (b) where retirement benefits become payable by virtue of regulation E4(7) (premature retirement), his 50th;
- (c) in any other case, his 60th.

3.—(1) Before delivering a declaration a person shall have given the Department written notice of his intention to make an allocation.

(2) The notice specified in sub-paragraph (1) shall be given—

- (a) in the case of a retiring employee, no later than his application for payment of retirement benefits; and
- (b) in any other case, no earlier than 4 months before the later of—
  - (i) the date on which the person becomes qualified for retirement benefits; and
  - (ii) his relevant birthday.

4.—(1) Before delivering a declaration a person shall also, at his own expense—

- (a) have satisfied the Department as to his health; and
- (b) have provided the Department with such information about the person for whose benefit the allocation is to be made, and verified it in such manner, as the Department may reasonably require.

(2) In order to satisfy the Department as to his health the person shall have been examined by a medical practitioner nominated by the Department; he may if he wishes be examined by a second such practitioner if the Department is not satisfied as a result of the first examination.

5.—(1) On receiving a notice under paragraph 3 the Department shall notify the person in writing of—

- (a) the amount or estimated amount of his retirement pension;
- (b) the name and address of any medical practitioner nominated under paragraph 4(2); and
- (c) the time within which any declaration is to be delivered.

(2) A declaration shall be delivered—

- (a) if the person is resident outside the United Kingdom, within 4 months; and
- (b) in any other case, within 3 months,

after receipt of the Department's notification under sub-paragraph (1).

(3) If the Department is satisfied as to the person's health, and with the information provided in accordance with paragraph 4(1)(b), it shall send him a suitable form on which to make the declaration.

(4) On the delivery to it of a declaration, the Department shall provide the person making it with written particulars of the alternative benefit.

6. A declaration, and any notice or other communication under this Part, may be sent by post.

### Part III

#### Other Matters

7.—(1) Subject to sub-paragraphs (2) to (6), a declaration takes effect on the day on which it is delivered to the Department.

(2) A declaration cannot take effect before the person's relevant birthday.

(3) A declaration has no effect if either the person making it or the person for whose benefit the allocation was to be made dies before the material time.

(4) In the case of a declaration made by a retiring employee the material time is the later of—

- (a) the day after that on which the declaration is delivered; and
- (b) the day before that on which he becomes entitled to payment of retirement benefits.

(5) In any other case the material time is the day on which the declaration is delivered.

(6) A declaration may be revoked or varied by a further declaration delivered—

- (a) in the case of a retiring employee, before the day on which he becomes entitled to payment of retirement benefits; and
- (b) in any other case, before the day on which the original declaration is delivered.

8.—(1) An allocation takes effect on the day on which the person making it becomes entitled to payment of retirement benefits.

(2) For the purposes of sub-paragraph (1), if a person other than a retiring employee dies in pensionable employment after his declaration has taken effect, he shall be taken to have become entitled to payment of retirement benefits on the date of his death.

9.—(1) If notice of intention has been given under paragraph 3 and by the later of—

- (a) the date of the person's becoming entitled to retirement benefits; and
- (b) his relevant birthday,

no declaration has been delivered, then, from the later of those dates until he has either delivered a declaration or failed to satisfy the Department as mentioned in paragraph 5(3), one-third of his retirement pension may be withheld.

(2) Any resulting underpayment or overpayment shall be adjusted in due course.

10.—(1) If after a retiring employee has delivered a declaration the rate of his retirement pension is increased, otherwise than under the Pensions (Increase) Act (Northern Ireland) 1971(57), the part allocated is correspondingly increased.

(2) Sub-paragraph (1) applies even if the increase in the retirement pension takes effect from a date earlier than the date of delivery of the declaration.

(3) The corresponding increase in the part allocated, which shall be rounded down to the nearest pound, takes effect from the same date as the increase in the retirement pension.

(4) If the alternative benefit is the one described in regulation E11(2)(b) (annuity for declarant followed by annuity for surviving spouse), the resulting increase in the first of those annuities takes effect from the same date as the increase in the retirement pension.

11. If after a person has delivered a declaration the rate of his retirement pension is reduced, the declaration continues to have effect but the part allocated is reduced to any extent necessary to secure that the restrictions in paragraph 1(2) are still complied with.

## SCHEDULE 11

Regulations F2(1) and F4(8)

### Transfer values

#### Part I

##### Outward Transfers

1. A transfer value is calculated on the cash equivalent basis if it is calculated and verified in the manner required by Chapter IV of Part IV of the Pensions Act (transfer values) for the calculation of cash equivalents.

2. Where—

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(57) 1971 c. 35 (N.I.) Part I of the Act has been amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)); Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)); Article 74(2) of, and Schedule 6 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and Article 2 of the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264)). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503) (N.I. 15) which have effect as if they were contained in Part V of that Act. Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)); Article 10(3) Part I of the Act has also been amended by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13))

- (a) a transfer value is payable to the scheme managers of a club scheme or a personal pension scheme; or
- (b) a transfer value is payable to the scheme managers of an approved superannuation scheme which is not a club scheme and none of the service to which it relates is service before 1st March 1989,

and no right to a cash equivalent was acquired, the transfer value shall be calculated on the cash equivalent basis.

3. Where—

- (a) a transfer value is payable to the scheme managers of an approved superannuation scheme which is not a club scheme; and
- (b) the service to which it relates includes service before 1st March 1989; and
- (c) no right to a cash equivalent was acquired,

the amount of the transfer value is the total of

**A and the greater of B and C,**

where—

A is a notional transfer value, calculated on the cash equivalent basis, in respect of the person's service after 28th February 1989;

B is a notional transfer value, calculated on the cash equivalent basis, in respect of his service before 1st March 1989; and

C is a notional transfer value, calculated as if Schedule 6 to the 1977 Regulations, as in operation on 28th February 1989, had continued in operation, in respect of his service before 1st March 1989.

4. Where—

- (a) a transfer value is payable to the scheme managers of an approved superannuation scheme which is not a club scheme; and
- (b) the service to which it relates includes service before 1st March 1989; and
- (c) a right to a cash equivalent was acquired,

the amount of the transfer value is

**D – E,**

where—

D is the transfer value that would have been payable if paragraph 3 had applied; and

E is the amount of the cash equivalent.

5. Where—

- (a) a transfer value is payable to the scheme managers of a personal pension scheme; and
- (b) a right to a part cash equivalent was acquired,

the transfer value shall be calculated on the cash equivalent basis but as if the person's pensionable employment had ended with 5th April 1988.

6.—(1) This paragraph applies where—

- (a) a transfer value falls to be calculated in accordance with paragraph 3 or 4; and
- (b) for the purposes of paragraph 3, C is greater than B.

(2) Subject to sub-paragraphs (3) and (4), if the transfer value is not paid within 6 months after the person ceased to be in pensionable employment the amount calculated in accordance with paragraph 3 or 4 is increased by adding to it interest on C at 9 per cent per annum, compounded with 3-monthly rests, for each complete period of 3 months after the end of the employment and before the date of payment.

(3) If the employment ended before 1st April 1977 the amount calculated in accordance with paragraph 3 is increased by adding to it—

- (a) interest on C at 6 per cent per annum, compounded with yearly rests, for each complete period of a year after the end of the employment and before 1st April 1977; and
- (b) interest on C at 9 per cent per annum, compounded with 3-monthly rests, for the period of 3 months beginning on 1st April 1977 and for each subsequent complete period of 3 months before the date of payment.

(4) If the employment ended after 5th April 1978 and before 1st April 1979 the amount calculated in accordance with paragraph 3 is increased by adding to it interest on C at 6 per cent per annum, compounded with yearly rests, for each complete period of a year after the end of the employment and before the date of payment.

7. Where a transfer value is paid to the scheme managers of an occupational pension scheme which is not a contracted-out scheme or of a personal pension scheme, there may be deducted from it the amount of any contributions equivalent premium paid by the Department.

## Part II

### Inward Transfers

8. If the employment in which the person was subject to the previous scheme was comparable service, he is entitled to count as reckonable service the period of service certified by the scheme managers as having stood to his credit under the scheme when he ceased to be subject to it.

9.—(1) If—

- (a) the previous scheme is a club scheme service under which is not comparable service; or
- (b) the previous scheme is a personal pension scheme or an approved superannuation scheme which is not a club scheme and the person has entered pensionable employment after 31st December 1985,

he is entitled, unless paragraph 10 applies, to count as reckonable service the period specified in sub-paragraph (2).

(2) The period is one equal to the period of reckonable service that would enable the Department to pay a transfer value, calculated on an actuarial basis, of the same amount as the one accepted.

(3) In calculating the period specified in sub-paragraph (2)—

- (a) if sub-paragraph (1)(a) applies and the request for the transfer value to be accepted was made within 12 months after the date which the person entered pensionable employment, the calculation shall be made by reference to the age and salary notified by the scheme managers of the previous scheme as those by reference to which the transfer value accepted was calculated;
- (b) if sub-paragraph (1)(b) applies and the transfer value was received within 12 months after the date on which the person entered pensionable employment, the calculation shall be made by reference to his age, and the annual rate of his contributable salary, on that date;
- (c) in any other case, the calculation shall be made by reference to his age, and the annual rate of his contributable salary, on the date on which the transfer value was received;

- (d) if sub-paragraph (1)(a) applies any sum representing interest that is included in the transfer value shall not be taken into account; and
- (e) if sub-paragraph (1)(b) applies any sum referred to in head (d) shall be taken into account.

10.—(1) This paragraph applies where—

- (a) the condition specified in paragraph 9(1)(b) applies;
- (b) the person has made an election under regulation B5 (election to rejoin pensionable service);
- (c) the previous election under regulation 12 of the Teachers' Superannuation (Miscellaneous Provisions No. 2) Regulations (Northern Ireland) 1988(58) (election not to be pensionable) was made before 30th June 1994;
- (d) the person has been in excluded employment between the date of the election under regulation B4 and the date of the election under regulation B5;
- (e) a transfer value was paid under regulation 75 of the 1977 Regulations or under Schedule 1A to the Social Security Pensions Act 1975(59) or chapter 1V of Part 1V of the Pensions Act in respect of the person in consequence of him ceasing to be in pensionable employment by virtue of the election under regulation B4;
- (f) the person is an individual as is mentioned in section 172(1) of the Pensions Act 1995(60); and
- (g) the Department accepts a transfer value under regulation F4 of the amount specified in sub-paragraph (3).

(2) In this paragraph “the period of original pensionable employment” means the period during which the person was in pensionable employment before he made his election under regulation B4.

(3) The amount referred to in sub-paragraph (1)(g) is

**A + B**

where—

A is the transfer value which, calculated on the basis specified in paragraph 9(2), would enable the person to count the period of excluded employment as reckonable service as if it had been pensionable employment; and

B is the greater of—

- (a) the transfer value paid by the Department in respect of the person in consequence of his ceasing to be in pensionable employment by virtue of his election under regulation B4 together with—
  - (i) in a case where the transfer value was paid to the Department pursuant to regulation F4 within four weeks of the request under regulation F4(3) an amount, determined actuarially, which represents the income which would have been received had such sum been invested during the period starting at the end of the month in which the transfer value was paid under regulation F1 and ending at the end of the month in which the request under regulation F4(3) was made; and
  - (ii) in any other case the amount referred to in paragraph (i) together with a further amount, determined actuarially, which represents the income which would have been received compounded with monthly rests, had such sum been invested during

(58) S.R. 1998 No. 363

(59) 1975 c. 60; Schedule 1A (now repealed by 1993 c. 49) was inserted by the Social Security Act 1985 (c. 85) Schedule 1, paragraph 3

(60) 1995 c. 26

- the period starting at the end of the month in which the request under regulation F4(3) was made and ending at the end of the month in which the transfer value was paid to the Department; and
- (b) the amount which would be paid as a transfer value under regulation F1 in respect of the person if at the date on which he made the election under regulation B5—
- (i) he was in pensionable employment and made an election under regulation B4; and
- (ii) he had been in pensionable employment for a period equal to the period of original pensionable employment.
- (4) Where this paragraph applies the person is entitled to count as reckonable service—
- (a) the reckonable service arising from the period of original pensionable employment; and
- (b) such service arising from the period of excluded employment as if it had been pensionable employment.
11. If—
- (a) the previous scheme is an approved superannuation scheme which is not a club scheme; and
- (b) the person entered pensionable employment before 1st January 1986,

he is entitled to count as reckonable service a period calculated as if Schedule 6 to the 1977 Regulations, as in operation on 28th February 1989, had continued in operation.

## SCHEDULE 12

Regulations G1, G2(4) and G4(5)

### **Teachers' Superannuation Account**

#### Part 1

##### Transitional

1. The account that was required by regulation 80 of the 1977 Regulations to be kept by the Department shall be made up to 1st November 1998 as if the period beginning with and including 1st April 1998 and ending with 1st November 1998 had been an accounting period within the meaning of Part V of the 1977 Regulations.

2.—(1) References in regulations G1 to G3 and in this Schedule to a financial year shall be construed as including references to the period beginning with and including 2nd November 1998 and ending with 31st March 1999.

(2) In relation to that period—

- (a) the reference in regulation G2(4)(a) to the closing balance in the account for the preceding financial year shall be construed as a reference to the closing balance in the account mentioned in paragraph 1 for the period mentioned in that paragraph; and
- (b) the reference in paragraph 6(2) to 1st October in the financial year shall be construed as a reference to 1st October 1998.

3.—(1) For the purposes of Part G—

- (a) the inquiry which was required by regulation 86(1) of the 1977 Regulations to be made with respect to the account mentioned in paragraph 1 at the end of the accounting period

ending with 31st March 1998 shall be treated as having been an inquiry required by regulation G4(1); and

- (b) the report on that inquiry shall be treated as a report made in compliance with regulation G4(2),

and accordingly for the purposes of regulation G5 (employers' contributions) the first relevant period is the period beginning on 1st April next following the date of that report.

(2) During the period beginning with and including 2nd November 1998 and ending immediately before the start of the first relevant period regulation G5 applies as if that period had been a relevant period and the required percentage had been 7.85.

## Part II

### Form of Account

4. The form referred to in regulation G1 is the following:

**ACCOUNT UNDER REGULATION G1 OF THE TEACHERS' SUPERANNUATION REGULATIONS (NORTHERN IRELAND) 1998 FOR THE YEAR ENDED 31st MARCH 19**

HEAD	£000's	£000's
Notional balance at 1st April 19		
<b>ADD RECEIPTS</b>		
<b>A1 Contributions</b>		
(i) Employees		
(ii) Employers		
<b>II Transfer Values</b>		
(i) Actual		
(ii) Notional		
<b>III Contributions equivalent premiums</b>		
<b>IV Miscellaneous receipts</b>		
<b>V Interest on notional investments</b>	_____	_____
<b>DEDUCT PAYMENTS</b>		
<b>BI Benefits</b>		
(i) Annual pensions	}	
(ii) Lump sums		
(iii) Death grants		
(iv) Widows' pensions		
(v) Widowers' pensions		
(vi) Children's pensions		
(vii) Other beneficiaries' pensions		
(viii) Short term pensions		
<b>II Repayments of contributions</b>		
<b>III Transfer values</b>		
(i) Actual		
(ii) Notional		
<b>IV Contributions equivalent premiums to the State Pension Scheme</b>		
Notional balance at 31st March 19	_____	_____
	_____	_____

**Part III**

**Notional Interest**

5.—(1) Subject to sub-paragraph (2) and paragraph 7(3), the notional interest to be credited to the account under regulation G2(4)(e) is the interest that would have accrued for the financial year—

- (a) from the notional investment that was referred to in regulation 83(1)(c) of the 1977 Regulations<sup>(61)</sup> (investment referable to accumulated balance of revenue over expenditure as at 31st March 1971); and

<sup>(61)</sup> Regulation 83 was as substituted by S.R. 1979 No. 380, Regulation 8 and Appendix 3, Regulations 79 to 81 were renumbered 80 to 92 by S.R. 1988 No. 64, Regulation 3(2)

- (b) from the notional investments of annual balances that were referred to in regulation 83(1) (b) of the 1977 Regulations (balances for financial years ending on or after 31st March 1972); and
- (c) in any financial year beginning after 31st March 1999, from the assumed investments at the end of preceding financial years described in paragraph 6(4),

and half the interest that would have accrued for the financial year from the assumed investment described in paragraph 6(3).

(2) There shall be deducted from the gross amount of the notional interest an amount equal to the income tax that would have been payable if the notional and assumed investments had been held for the purposes of a retirement benefits scheme approved under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988(62) which was an exempt approved scheme within the meaning of that Chapter and which provided benefits comparable to those provided under these Regulations.

6.—(1) In this paragraph “invested” means invested in one or more designated securities at the mean price.

(2) A designated security is a government security designated for the financial year by the Department after consulting the Government Actuary, and the mean price is half way between the highest and lowest prices shown for it in the Official Daily List of The Stock Exchange for 1st October in the financial year or, if the Exchange was not then open, for the last day on which it had been open.

(3) It shall be assumed that

**A + B – C**

was invested at the beginning of the financial year—

A being the total of the receipts credited for the financial year in accordance with regulation G2(1) and (4)(b) to (d);

B being the notional interest described in paragraph 5(1)(a), (b) and (c); and

C being the total of the payments debited for the financial year in accordance with regulation G3.

(4) It shall be assumed that

**A + B + D – C**

is invested at the end of the financial year in the same designated security or securities, A, B and C being the same as in sub-paragraph (3) and D being half the interest that would have accrued for the financial year from the assumed investment described in that sub-paragraph.

7.—(1) Any security which is the subject of a notional or assumed investment mentioned in paragraph 5(1)(a), (b) or (c) shall be treated as having been redeemed on the last date on which it could have been redeemed in accordance with the terms on which it was issued (“the redemption date”).

(2) The amount originally treated as invested in the security shall be assumed to have been re-invested on the redemption date in a government security designated by the Department after consulting the Government Actuary.

(3) The notional interest calculated in accordance with paragraph 5 shall be increased by any excess of F over E, or as the case may be reduced by any excess of

**E over F,**

where—

E is the amount originally treated as invested in the security; and

F is the amount notionally received on its redemption after deducting any capital gains tax that would have been payable if the investment had been held for the purposes of a retirement benefits scheme of the kind mentioned in paragraph 5(2).

SCHEDULE 13

Regulation H7(1) to (4)

**Revocations, savings and transitional provisions**

**Part I**

**Revocations**

<i>Regulations revoked</i>	<i>References</i>
The Teachers' Superannuation Regulations (Northern Ireland) 1977	S.R. <a href="#">1977 No. 260</a>
The Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1978	S.R. <a href="#">1978 No. 147</a>
The Teachers' Superannuation (Amendments) (No. 2) Regulations (Northern Ireland) 1978	S.R. <a href="#">1978 No. 351</a>
The Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1979	S.R. <a href="#">1979 No. 380</a>
The Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1980	S.R. <a href="#">1980 No. 305</a>
The Teachers' Superannuation (Amendment No 2) Regulations (Northern Ireland) 1980	S.R. <a href="#">1980 No. 435</a>
The Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1981	S.R. <a href="#">1981 No. 151</a>
The Teachers' Superannuation (War Service) Regulations (Northern Ireland) 1982	S.R. <a href="#">1982 No. 162</a>
The Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1982	S.R. <a href="#">1982 No. 346</a>
The Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1987	S.R. <a href="#">1987 No. 76</a>
The Teachers' Superannuation (Amendment No. 2) Regulations (Northern Ireland) 1987	S.R. <a href="#">1987 No. 86</a>
The Teachers' Superannuation (Amendment No. 3) Regulations (Northern Ireland) 1987	S.R. <a href="#">1987 No. 315</a>
The Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1988	S.R. <a href="#">1988 No. 64</a>

<i>Regulations revoked</i>	<i>References</i>
The Teachers' Superannuation (Miscellaneous Provisions) Regulations (Northern Ireland) 1988	<a href="#">S.I. 1988 No. 167</a>
The Teachers' Superannuation (Miscellaneous Provisions No. 2) Regulations (Northern Ireland) 1988	<a href="#">S.R. 1988 No. 363</a>
The Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 25</a>
The Teachers' Superannuation (Amendment No. 2) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 181</a>

## Part II

### Savings

1. The revocation by these Regulations of a transitional provision relating to the coming into operation of a provision re-enacted in these Regulations does not affect the operation of that transitional provision, so far as it remains capable of having effect, in relation to the provision as re-enacted.

2.—(1) The revocation by these Regulations of a provision previously revoked subject to savings does not affect the previous operation of those savings.

(2) The revocation by these Regulations of a saving made on the previous revocation of a provision does not affect the operation of the saving in so far as it remains capable of having effect.

3. Any document made, served or issued after 1st November 1998 which includes a reference to a provision revoked by these Regulations shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of these Regulations.

## Part III

### Transitional Provisions

1.—(1) The re-enactment of provisions in these Regulations, and the consequent revocation of those provisions by these Regulations, does not affect the continuity of the law.

(2) The general rule is that the provisions of these Regulations apply, in accordance with subparagraph (1), to matters arising before the commencement of these Regulations as to matters arising after that commencement.

(3) The general rule has effect subject to any express provision to the contrary, and to paragraph 2 (protected benefits).

(4) The general rule does not mean that the provisions of these Regulations apply to cases to which the corresponding revoked provisions did not apply by virtue of transitional provision made in connection with the commencement of the revoked provisions (such transitional provisions are saved by paragraph 1 of Part II).

2.—(1) Where—

- (a) a provision of these Regulations (“the new provision”) re-enacts with any modification a provision revoked by these Regulations (“the former provision”); and
- (b) the effect of the general rule is that a person to whom a protected benefit was being paid or might become payable is placed in a worse position than he would have been in if the former provision had continued to have effect,

he may by giving written notice to the Department within 3 months after 2nd November 1998 elect that the new provision is to apply in relation to the benefit as if it had re-enacted the former provision without modification.

(2) A protected benefit is one paid, or capable of becoming payable, to or in respect of a person who before 2nd November 1998 ceased to be in pensionable employment or died.

3. Where a period of time specified in a provision of any Regulations revoked by these Regulations is current at the commencement of these Regulations, these Regulations have effect as if the corresponding provision of these Regulations had been in operation when that period began to run.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations revoke and replace the Teachers' Superannuation Regulations (Northern Ireland) 1977.

The principal changes are as follows:—

- (a) A teacher employed in a part-time capacity may elect that the employment should be pensionable (Regulation B1) and may purchase added years on the same conditions as full-time employees (*regulations C3 and C6*).
- (b) The rate of contributions payable by a teacher absent on maternity leave will be based on the actual salary paid and not on the notional salary payable. The employer's contribution will continue to be based on the notional salary that would have been payable (*regulation C1, (1)(c)*).
- (c) A teacher who has been out of pensionable employment for one month or more will be entitled to a refund of contributions provided that he does not have enough service to qualify for superannuation benefits (*regulation C9(1)*).
- (d) Where a teacher has been prohibited or restricted from teaching on the grounds of misconduct, or where such action is being considered by the Department of Education, infirmity retirement will not be permitted (*regulation E4 (4) and (5)*).
- (e) Where a teacher has resigned from teaching and subsequently qualifies for infirmity benefits, the benefits are payable from the date immediately after the last day of his employment as a teacher (*regulation E4(10)*).
- (f) Service before 1 October 1956 will, in calculating the lump sum, be treated in the same way as other service (*regulation E6*).
- (g) Abatement of pension during further employment is calculated on an “annual” basis instead of the previous “quarterly” basis (*regulation E14*).

- (h) Where a person is granted infirmity retirement and there are exceptional circumstances of serious ill health, he may elect to commute the retirement pension to a lump sum (*regulation E19*).
- (i) The death grant is increased to twice the average annual salary. Death grants are payable only to the person nominated by the deceased. At any time there may be only one valid nominee. Where no nomination has been made, the death grant is payable to the surviving spouse or, if there is no surviving spouse, to the personal representatives (*regulation E20*).
- (j) The method of calculating average annual salary for a teacher employed in a part-time capacity has been changed. Average annual salary for such a teacher is based on the salary the teacher would have received if he had been employed in a full-time capacity for that period (*regulation E31(10)*).
- (k) The period within which superannuation contributions must be paid over to the Department has been reduced from 2 weeks to seven days after the end of the month to which the contributions relate (*regulation G6*).
- (l) Where a teacher continues to be employed by the same employer but at a reduced rate of salary, his superannuation benefits may be calculated in two parts. This may be done only where the transfer to the employment on lower salary has been in the interests of the efficient discharge of the employer's function.

The first part of the pension will be determined on the basis of the average annual salary and the service immediately before the reduced salary took effect. The second part of the pension will be determined by the average annual salary at the date of retirement and the service which was not taken into account in the first part (*regulation H1 and Schedule 9 Part II*).