
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 149

EDUCATION

The Teachers' Superannuation (Sharing of Pensions on Divorce or Annulment) Regulations (Northern Ireland) 2001

Made 3rd April 2001

Coming into operation 1st May 2001

The Department of Education(a), in exercise of the powers conferred upon it by Articles 11(1)(b), (2), (2A)(c), (3), (3A)(d), (4) and (6)(e), 14(2)(f) 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(g) 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(h), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Sharing of Pension on Divorce or Annulment) Regulations (Northern Ireland) 2001 and shall come into operation on 1st May 2001.

(2) In these Regulations—

“the 1998 Regulations” means the Teachers' Superannuation Regulations (Northern Ireland) 1998(i); and

“the 1996 Regulations” means the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996(j).

Amendment to the 1998 Regulations

2.—(1) There shall be inserted after Part H of the 1998 Regulations the Part contained in Schedule 1.

(2) The definitions in Schedule 2 shall be inserted in the appropriate place in alphabetical order in Schedule 1 to the 1998 Regulations.

(a) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)
(b) As amended by S.I. 1990/1509 (N.I. 13) Article 13(1)
(c) As inserted by S.I. 1990/1509 (N.I. 13) Article 10(3)
(d) As inserted by S.I. 1990/1509 (N.I. 13) Article 6(1)
(e) As amended by S.I. 1990/1509 (N.I. 13) Articles 10(4) and 13(2)
(f) 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. 1972/1073 (N.I. 13) Article 12(3)
(g) S.I. 1972/1073 (N.I. 10)
(h) Formerly a function of the Department of Finance: *see* S.I. 1982/378 (N.I. 6) Article 3
(i) S.R. 1998 No. 333
(j) S.R. 1996 No. 260

(3) Further amendments to the 1998 Regulations are contained in Schedule 3.

Amendments to the 1996 Regulations

3.—(1) After regulation 13 of the 1996 Regulations there shall be inserted the regulation contained in Schedule 4.

(2) Further amendments to the 1996 Regulations are contained in Schedule 5.

Sealed with the Official Seal of the Department of Education on 3rd April 2001.

(L.S.)

N. Jackson
A Senior Officer of the Department
of Education

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 3rd April 2001.

(L.S.)

D. S. Trelford
A Senior Officer of the Department
of Finance and Personnel

Part I of the 1998 Regulations

“PART I

PENSION SHARING

Pension sharing

11. Pension sharing within the meaning of Part V of the 1999 Order^(a) is available under the Teachers’ Superannuation Scheme in respect of all or part of a person’s shareable rights as set out in this Part and the Department shall discharge its liability in respect of a pension credit which derives from the Teachers’ Superannuation Scheme by conferring appropriate rights under the Teachers’ Superannuation Scheme on the person entitled to the credit.

Safeguarded rights

12.—(1) A pension credit member’s safeguarded rights for the purposes of the Teachers’ Superannuation Scheme are such of his rights falling within section 64A(1) of the Pensions Act^(b) as representing the safeguarded percentage of the rights acquired by him in the Teachers’ Superannuation Scheme by virtue of the pension credit.

(2) For the purpose of these Regulations—

(a) the “safeguarded percentage” is the percentage of the rights, by reference to which the amount of the pension credit is determined, which are contracted-out rights or safeguarded rights, and

(b) “contracted-out rights” has the meaning in section 64A(5) of the Pensions Act.

Pension credit benefits

13.—(1) Subject to paragraph (3), the pension credit benefits to which a pension credit member is entitled shall consist of a pension and a lump sum which are not retirement benefits within the meaning of Part E and that Part shall not apply to pension credit benefits except as provided in this Part.

(2) The pension shall be of an amount calculated by reference to the value of the rights conferred on a pension credit member calculated in accordance with regulation 10 of the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000^(c).

(3) The lump sum shall be three times the initial annual rate of pension paid under paragraph (2), save that no lump sum shall be paid to the pension credit member if the corresponding pension debit member has already received a lump sum before the pension sharing order takes effect.

(4) Regulation E33 (payment of benefits) shall apply to a pension credit member and for those purposes only any reference to benefits payable under Part E shall be a reference to the benefits payable under this Part.

(a) The Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
(b) Section 64A was inserted by Article 33 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(c) S.R. 2000 No. 145

(5) Subject to making an application for payment under regulation E33(2), a pension credit member shall receive payment in accordance with this regulation upon attaining the age of 60.

(6) A pension credit member's pension under this Part continues to be payable until the death of the person entitled to it.

Commutation

14.—(1) Where a pension credit member is suffering from serious ill health prior to attaining the age of 60 such as to give rise to a life expectancy of less than one year from the date on which commutation of the pension credit benefit is applied for, the Department may discharge the liability to pay a pension by payment of a lump sum save in relation to the pension credit member's safeguarded rights.

(2) The amount of the lump sum payable by virtue of paragraph (1) shall be the total of the lump sum that would have been payable under regulation I3(3) and five times the value of the initial annual pension that would have been payable under regulation I3(2) if the pension credit member had attained the age of 60 on the date he applied for commutation under this regulation.

(3) Where the aggregate of total benefits payable to a pension credit member (including, where applicable, any amounts payable under Part E and the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996 does not exceed the sum referred to in regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(a) the Department may discharge its liability to pay those benefits, save in relation to the pension credit member's safeguarded rights, by payment of a lump sum equal to the aggregated value.

Deferment

15.—(1) This regulation applies where a pension credit member is convicted—

(a) of an offence of treason, or

(b) of one offence or more under the Official Secrets Act 1911 to 1989 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,

and any pension credit benefit becomes payable to him after the offence was committed.

(2) Subject to paragraph (3), where this regulation applies the Department may—

(a) defer or, as the case may be, suspend payment of the pension credit benefit for so long, or

(b) reduce its amount or rate by so much,

as it may determine.

(3) A determination under paragraph (2) shall not deprive a pension credit member of a pension payable to him by reference to his safeguarded rights.

(a) S.R. 2000 No. 146. The sum currently referred to is £260

Death grant

16.— (1) Upon the death of a person after a pension sharing order has been made but before the Department has discharged its liability in respect of the pension credit to which that person would otherwise be entitled, a death grant shall be paid in accordance with paragraph (3).

(2) Upon the death of a pension credit member, a death grant shall be paid in accordance with paragraph (4) if, at the time of his death, he has not received any pension credit benefits or if he has received a pension for less than five years.

(3) The amount of the death grant to be paid in the circumstances set out in paragraph (1) is—

(a) if the deceased had attained the age of 60 on or before the date of his death, the total of a lump sum calculated in accordance with regulation I3(3) and a lump sum equal to five times the amount of the pension which would otherwise have been payable, or

(b) in all other circumstances, a lump sum equal to that to which the deceased would have been entitled if, on the date of his death, he had attained the age of 60.

(4) The amount of the death grant to be paid in the circumstances set out in paragraph (2) is—

(a) if the pension credit member was already entitled to payment of pension credit benefits, a lump sum equal to five times the amount of the pension which would otherwise have been payable less any amount which has already been paid, or

(b) if the pension credit member was not entitled to pension credit benefits, a lump sum equal to that to which he would have been entitled if, on the date of his death, he had attained the age of 60.

(5) The death grant is to 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 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.

(6) Any nomination for the purposes of paragraph (5) shall be made by giving written notice to the Department.

Transfer Values

17. The Department shall not pay or accept a transfer value within the meaning of Part F in respect of any pension credit rights or pension credit benefits.

Additional contributions and additional periods

18.—(1) Subject to paragraph (2), a pension debit member may not replace any rights debited as a consequence of a pension sharing order with any rights which he would not have been able to acquire (in addition to the debited rights) had the pension sharing order not been made.

(2) Paragraph (1) shall not apply to pension debit members who are moderate earners within the meaning of regulations 5(4) to (6) of the Retirement Benefits Schemes (Sharing of Pensions on Divorce or Annulment) Regulations 2000(a).

Excluded membership

19. Where a pension credit member is in pensionable employment or is not in pensionable employment but is qualified for retirement benefits, he may not count any period which could otherwise count for a purpose in connection with his pension credit benefit towards any qualifying period or period of reckonable service required under the Teachers' Pension Scheme before he is entitled to any benefit.

Assignment

110.—(1) Any assignment of or charge on or agreement to assign or charge any pension credits or pension credit benefits is void.

(2) Paragraph (1) shall not preclude any assignment of a pension credit or payment of pension credit benefits pursuant to an order of the court under Article 27B or 27C of the Matrimonial Causes (Northern Ireland) Order 1978(a) or pursuant to regulations made under Article 27D of that Order or to pension sharing under Chapter 1 of Part V of the 1999 Order or Chapter 1 of Part IV of the Welfare Reform and Pensions Act 1999(b).

(3) On the bankruptcy of a person entitled to a pension credit or pension credit benefits, no part thereof passes to any trustee or any 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(c).”.

(a) 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)
(b) 1999 c. 30
(c) S.I. 1989/2405 (N.I. 19) as amended by S.I. 1995/3213 (N.I. 22) Article 119 and Schedule 1 Paragraph 11

Amendments to Schedule 1 of the 1998 Regulations

“The 1999 Order”	The Welfare Reform and Pensions (Northern Ireland) Order 1999(a).
“Appropriate rights”	Rights conferred on a person entitled to a pension credit— (a) with effect from, and including, the day on which the pension sharing order, under which the pension credit arises, takes effect, and (b) which have a value, calculated in accordance with regulations made under paragraph 5(b) of Schedule 5 to the 1999 Order(b), that equals the amount of the pension credit.
“Pension credit”	A credit under Article 26(1)(b) of the 1999 Order or section 29(1)(b) of the Welfare Reform and Pensions Act 1999.
“Pension credit benefits”	The benefits payable under the Teachers’ Superannuation Scheme which are attributable (directly or indirectly) to a pension credit.
“Pension credit rights”	Rights to future benefits under the Teachers’ Superannuation Scheme which are attributable (directly or indirectly) to a pension credit.
“Pension credit member”	A person who has rights under the Teachers’ Superannuation Scheme which are attributable (directly or indirectly) to a pension credit either solely or wholly separately from any other rights under Teachers’ Superannuation Scheme.
“Pension debit”	A debit under Article 26(1)(a) of the 1999 Order or section 29(1)(a) of the Welfare Reform and Pensions Act 1999.
“Pension debit member”	A person whose shareable rights under the Teachers’ Superannuation Scheme are subject to a pension debit.
“Pension sharing order”	A pension sharing order or other provision referred to in Article 25(1) of the 1999 Order or section 28(1) of the Welfare Reform and Pensions Act 1999.
“Shareable rights”	Any rights a person has under the Teachers’ Superannuation Scheme except those rights referred to in regulation 2 of the Pension Sharing (Valuation) Regulations (Northern Ireland) 2000(c).

(a) S.R. 2000 No. 144. *See* Welfare Reform and Pensions (Northern Ireland) Order 1999

(b) *See* regulation 10 of the Pension Sharing (Implementation and Discharge of Liability Regulations (Northern Ireland) 2000 (S.R. 2000 No. 145)

(c) S.R. 2000 No. 144. *See* Welfare Reform and Pensions (Northern Ireland) Order 1999, Article 24(2)

“the Teachers’ Superannuation Scheme”

The occupational pension scheme (within the meaning of section 1 of the Pensions Act) established under Article 11 of the Superannuation (Northern Ireland) Order 1972 and these Regulations.

Further amendment to the 1998 Regulations

1. In regulation E25(1)(c) after the words “retirement pension” there shall be inserted the words “save that any reduction in that retirement pension by virtue of a pension sharing order shall be disregarded if the short-term pension is payable to a child”.
2. In regulation E28—
 - (a) in paragraph (1) for the words “paragraph (2)” there shall be inserted the words “paragraphs (2) and (2A)”; and
 - (b) after paragraph (2) there shall be inserted the following paragraph—

“(2A) Where after a pension sharing order has taken effect a surviving spouse or a nominated beneficiary becomes entitled to a pension under regulation E26, that pension shall be reduced by the same proportion by which the deceased’s retirement benefits would have been reduced if he had become entitled to them on the day he died”.
3. In regulation E34 at the end of paragraph (3), there shall be added “or pursuant to pension sharing under Chapter 1 of Part V of the 1999 Order or Chapter 1 of Part IV of the Welfare Reform and Pension Act 1999”.

New Regulation in the 1996 Regulations*“Pension sharing on divorce or annulment*

13A.—(1) Pension sharing within the meaning of Part V of the 1999 Order is available under the AVC Scheme in respect of all or part of a person’s shareable rights as set out in this Regulation except as otherwise provided and the Department shall discharge its liability in respect of a pension credit which derives from the AVC Scheme in accordance with paragraph 1 of Schedule 5 to the 1999 Order (pension credits; mode of discharge: funded pension schemes).

(2) Upon the taking effect of a pension sharing order, an amount representing the pension credit member’s share of the pension debit member’s accumulated additional voluntary contributions calculated in accordance with regulation 10(4) of the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000(a), shall be invested by the Department in accordance with the wishes of the pension credit member in one or more of the funds authorised by the Department for the purposes of these Regulations managed by an insurance company selected by it.

(3) The benefits that may be provided in accordance with this regulation under a pension policy purchased as described in regulation 12(7) as it applies in the circumstances of this regulation are a pension and one or more dependant’s pensions.

(4) The pension will commence not earlier than the date on which the pension credit member attains the age of 60 and is payable for life.

(5) A dependant’s pension is a pension which would become payable to a dependant on the death of the pension credit member after his pension has commenced as provided in paragraph (4) and is payable for life, except that, in the case of a dependant who is a child as defined in the 1998 Regulations, it shall cease to be payable when that person ceases to be a child.

(6) Upon the death of a person after a pension sharing order has been made but before the Department has discharged his liability in respect of the pension credit to which that person would otherwise be entitled, a lump sum equal to the value of the pension credit at the date of that person’s death shall be paid to his personal representatives.

(7) Paragraphs (4) to (11) of regulation 12(b) apply in the circumstances of this regulation with the following modifications wherever the words to be modified appear—

- (a) the reference to “participator” shall be a reference to “pension credit member”;
- (b) the reference to “retirement” shall be a reference to “the date on which the pension will commence under regulation 13A(4)”;
- (c) the reference to “retirement pension” shall be a reference to “pension credit member’s pension”;
- (d) the reference to “investments made under regulation 9(1) or 10(2)” shall be a reference to “investments made under regulation 13A(2)”; and

(a) S.R. 2000 No. 145

(b) Regulation 12 is amended by paragraph 4 of Schedule 5 to these Regulations

- (e) the reference to “the insurance company referred to in regulation 9” shall be a reference to “the insurance company referred to in regulation 13A(2)”.
 - (f) the reference in paragraph (10) to serious ill-health shall be a reference to ill-health which is such as to give rise to a life expectancy of less than one year from the date on which commutation is applied for; and
 - (g) the reference in paragraph (11) to the amount prescribed by regulations for the time being in force under section 17(1) of the Pension Schemes (Northern Ireland) Act 1993^(a) shall be a reference to the amount prescribed by regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000^(b).
- (8) In regulation 16, wherever regulation 12(5), (6) or (9) is referred to, it shall include a reference to that regulation as modified by this regulation in relation to pension credits.”.

(a) 1993 c. 49
(b) S.R. 2000 No. 146

Further amendments to the 1996 Regulations

1. In regulation 2(1) after the words “Income and Corporation Taxes Act 1988,” there shall be inserted the words “references to the 1999 Order are references to the Welfare Reform and Pensions (Northern Ireland) Order 1999”.

2. In regulation 2(1) there shall be inserted in the appropriate places in alphabetical order the following definitions —

“the AVC Scheme” means the Scheme established under these Regulations;

“pension credit” means a credit under Article 26(1)(b) of the 1999 Order or section 29(1)(b) of the Welfare Reform and Pensions Act 1999;

“pension credit benefits” means in relation to the AVC Scheme the benefits payable under that Scheme which are attributable (directly or indirectly) to a pension credit;

“pension credit member” means a person who has rights under the AVC scheme which are attributable (directly or indirectly) to a pension credit either solely or wholly separately from any other rights under the AVC Scheme;

“pension debit” means a debit under Article 26(1)(a) of the 1999 Order or section 29(1)(a) of the Welfare Reform and Pensions Act 1999;

“pension debit member” means a person who has rights under the AVC Scheme, whose shareable rights under that Scheme are subject to a pension debit;

“pension sharing order” means a pension sharing order or other provision referred to in Article 25(1) of the 1999 Order or section 28(1) of the Welfare Reform and Pensions Act 1999;

“shareable rights” means any rights under the AVC Scheme except those rights referred to in regulation 2 of the Pension Sharing (Valuation) (Northern Ireland) Regulations 2000(a).

3. At the end of regulation 11 there shall be inserted the following paragraph—

“(3) The Department may pay a transfer value representing the value of a person’s pension credit or of investments made under regulation 13A(2) in the circumstances of Chapter II of Part IVA of the Pension Schemes (Northern Ireland) Act 1993(b) and regulations made under that Chapter(c).”.

4. In regulation 12(11) the words “arising from the participator’s service” shall be deleted.

(a) S.R. 2000 No. 144. *See* Welfare Reform in Pensions (Northern Ireland) Order 1999 Article 24(2)
(b) 1993 c. 48; Part IVA was inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(c) *See* Part III of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 S.R. 2000 No. 146

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Teachers' Superannuation Regulations (Northern Ireland) 1998 ("the 1998 Regulations") and the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996 ("the 1996 Regulations"). The amendments make provision for pension benefits to a former spouse following the sharing of pensions on divorce or nullity of marriage.

Regulation 2(1) and Schedule 1 insert a new Part I into the 1998 Regulations after Part H, regulation 2(2) and Schedule 2 insert new definitions into Schedule 1 to the 1998 Regulations, regulation 2(2) and Schedule 2 insert new definitions into Schedule 1 of the 1998 Regulations and regulation 2(3) and Schedule 3 make further amendments to those Regulations. Regulation 3(1) and Schedule 4 insert a new regulation 13A into the 1996 Regulations, and regulation 3(2) and Schedule 5 make further amendments including inserting new definitions into the 1996 Regulations.

Part I as inserted into the 1998 Regulations provides that pension sharing within the meaning of Part V of the Welfare Reform and Pensions Order (Northern Ireland) 1999 is available under the Teachers' Superannuation Scheme thus entitling a former spouse ("the pension credit member") to rights in the Teachers' Superannuation Scheme (*regulation 11*). The regulations provide for the identification of the percentage of his rights that are safeguarded rights within the meaning of the Pension Schemes Act 1993 (*regulation 12*). The Department may give effect to safeguarded rights only by the provision of a pension for life by virtue of the Pension Sharing (Safeguarded Rights) Regulations (Northern Ireland) 2000.

In addition to a pension, the pension credit member is entitled to a lump sum unless one has already been paid to his former spouse. Subject to making an application for payment, the pension credit member receives his benefits at the age of 60 (*regulation 13*).

The pension of a pension credit member may be commuted to a lump sum if, prior to his reaching the age of 60, he is suffering from serious ill-health or if the aggregate of benefits payable to him do not exceed a prescribed amount, currently £260 per annum (*regulation 14*).

The pension, except that payable in respect of the pension credit member's safeguarded rights, may also be deferred, suspended or reduced where he has been convicted of treason or sentenced to imprisonment of at least 10 years for one or more offences under the Official Secrets Acts 1911 to 1989 (*regulation 15*).

If a person dies after a pension sharing order has been made but before the Department has discharged its liability in respect of it, or if a pension credit member dies before he has received his benefits, or if he has received

a pension for less than five years, a death grant becomes payable (*regulation 16*).

The Department will not pay or accept transfer values in respect of pension credit rights or benefits (*regulation 17*).

A pension debit member cannot replace rights debited as a consequence of pension sharing which he could not have acquired had pension sharing not occurred. This shall not apply in the case of moderate earners as defined in regulations 5(4) to (6) of the Retirement Benefits Schemes (Sharing of Pension on Divorce or Annulment) Regulations 2000 (*regulation 18*).

A pension credit member who is in pensionable employment or is not in pensionable employment but is qualified for benefits under Teachers' Superannuation Scheme cannot count any period in connection with his pension credit benefit towards any qualification period required by the Teachers' Superannuation Scheme (*regulation 19*).

Pension credits and pension credit benefits cannot be assigned or charged except as provided for in these Regulations (*regulation 110*).

Pensions payable to children on the death of a pension debit member will not be reduced as a result of pension sharing but pensions payable to a widow, widower or nominated beneficiary will be reduced (Schedule 3, paragraphs 1 and 2).

Regulation 13A as inserted into the 1996 Regulations provides that pension sharing is available in the AVC Scheme. The pension credit member's share of his former spouse's contributions will be invested by the Department in accordance with the pension credit member's wishes. A pension for life and one or more dependant's pensions for life may be provided from the pension policy purchased under the Regulations. The pension will commence not earlier than the date on which the pension credit member reaches the age of 60. If a person dies after a pension sharing order has been made but before the Department has discharged its liability in respect of it, a lump sum equal to the value of that pension credit at the date of his death is paid to his personal representatives. The following paragraphs of regulation 12 apply with modifications; paragraph (4) (no surrender etc), (5) (benefits election); (6) (death within 5 years of pension commencing), (7) (purchase of pension policy), (8) (no benefit elections), (9) (death before pension commences etc), (10) (commutation for serious ill-health), and (11) (commutation for triviality) (Schedule 4).

Regulation 11 of the 1996 Regulations is amended to provide that a pension credit member may transfer his pension credits out of the AVC scheme (Schedule 5, paragraph 3).

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