

2003 No. 86

EDUCATION

**Teachers' Superannuation (Additional Voluntary
Contributions) (Amendment) Regulations
(Northern Ireland) 2003**

Made - - - - - 21st February 2003

Coming into operation 1st April 2003

The Department of Education(a), in exercise of the powers conferred upon it by Articles 11(1)(b), (2), (2A)(c) and (3), 14(1), (2), (3)(d) and (3A)(e) of and paragraphs 1, 3, 4, 5, 6, 8, 9, 10 and 11 to 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(f) and of every other power 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 appeared to it to be appropriate as required by Article 11(5) of that Order, and with the consent of the Department of Finance and Personnel(g), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2003.

(2) These Regulations shall come into operation on 1st April 2003 and shall have effect from 1st April 2000.

(3) In these Regulations "the 1996 Regulations" means the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996(h).

Amendment of 1996 Regulations

2.—(1) In regulation 2(1) of the 1996 Regulations –

(a) there shall be inserted in the appropriate place in alphabetical order –

“ “Insurance company” means –

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000(i) to effect or carry out contracts of long-term insurance, or

(b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act(j), which has permission under paragraph 15 of that Schedule (as a result of

(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 amended by S.I. 1990/1509 (N.I. 13) Article 12(1) and (2)

(e) As inserted by S.I. 1990/1509 (N.I. 13) Article 12(3)

(f) S.I. 1972/1073 (N.I. 10)

(g) Formerly a function of the Department of Finance: *see* S.I. 1982/378 (N.I. 6) Article 3

(h) S.R. 1996/260

(i) S.I. 2000 c. 8

(j) *See* Article 477 of S.I. 2001/3649

qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”

The definition of “insurance company” shall be read with –

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 3 to that Act.

“ “Investment Linked Pension” means a pension which remains investment linked after it becomes payable and which is payable from the proceeds of an annuity policy authorised by the Department for the purposes of these Regulations and managed by an insurance company selected by it”.

“ “pro-rata employment” means employment in respect of which a teacher is paid a proportion of the annual salary that would be appropriate if he were employed in a full-time capacity, but does not include employment in respect of which the remuneration of the teacher is expressed in terms of an hourly rate.

(b) for the definition of “Principal Regulations” there shall be substituted –

“ “Principal Regulations” means the Teachers’ Superannuation Regulations (Northern Ireland) 1998(a);”;

(c) for the definition of “reckonable service” there shall be substituted –

“reckonable service” has the meaning given to it in regulation D1(1)(a) of the Principal Regulations;”.

(d) “ “the 1977 Regulations” means the Teachers’ Superannuation Regulations (Northern Ireland) 1977.”

(2) In regulation 5 of the 1996 Regulations at the end of paragraph (3)(c)(iii) there shall be added –

“, or

(iv) is to be an Investment Linked Pension.”.

(3) In regulation 10(1) of the 1996 Regulations for the words “Where a person who enters employment in reckonable service has during previous employment paid contributions to” there shall be substituted “Where a person in pensionable employment has paid contributions to”.

(4) In regulation 12 of the 1996 Regulations –

(a) in paragraph (5) for the word “shall” where it first appears there shall be substituted “may”;

(b) for the “and” at the end of paragraph (5)(d)(iii) there shall be substituted “or” and thereafter there shall be inserted –

“(iv) is to be an Investment Linked Pension; and”;

(c) for paragraph (8) there shall be substituted –

“(8) Subject to paragraphs (9) and (10), if the participator has not made an election under paragraph (5) before he attains the age of 75, the Department may on or after his attaining that age realise the investments made under regulation 9(1) or 10(2) and apply the amount obtained to the purchase of a pension policy from the insurance company referred to in regulation 9 to provide such benefits as appears to it to be suitable.”; and

(d) at the end of paragraph (9) after “as a lump sum” there shall be added –

“limited to 5 times the annual rate at which the retirement pension would have been payable had he not died”.

(5) In paragraph 4 of the Schedule to the 1996 Regulations –

(a) after sub-paragraph (1) there shall be inserted –

“(1A) In this paragraph in calculating “the average of the participator’s salary” where the participator has spent any of the period in paragraph 4(1) in pro-rata employment the salary for that period shall be the amount which it would have been if the employment had been full-time during that period.”.

(a) S.R. 1998/333

(b) in sub-paragraph (2) there shall be inserted after the words “In this paragraph” the following –

“subject to sub-paragraph 2(A)”.

(c) after sub-paragraph (2) there shall be inserted –

“(2A) In calculating the “adjusted salary” for a participator who has spent any of the periods mentioned in sub-paragraph (2) in pro-rata employment the salary for that period shall be the amount which it would have been if the employment had been full-time during that period.”.

(6) In paragraph 8 of the Schedule to the 1996 Regulations at the beginning of sub-paragraph 8(1) there shall be inserted “Subject to paragraph 8A,” and after paragraph 8 there shall be inserted –

“8A. Where –

(a) a participator joined the Teachers’ Superannuation Scheme under the 1977 Regulations or the Principal Regulations on or after 1st September 1991;

(b) his election under regulation 4, or, if more than one, his first election, takes effect on or after 1st April 2000; and

(c) his earnings in his first year of pensionable employment do not exceed one-quarter of the permitted maximum under section 590C of the Taxes Act(a),

the permitted amount shall be G as defined in paragraph 8.”.

Sealed with the Official Seal of the Department of Education on 21st February 2003.

(L.S.)

J. Caldwell

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 21st February 2003.

(L.S.)

Jack Layberry

A Senior Officer of the Department of Finance and Personnel

(a) Section 590C was inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraph 4(a). Words in subsections (4) and (5) were substituted by the Finance Act 1993 (c. 34), section 107(4), (5) and (8)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1996 ("the 1996 Regulations").

Regulation 2(1) inserts into regulation 2 of the 1996 Regulations definitions for the expression "Investment Linked Pension" (which is a pension that remains investment linked after it becomes payable and which is payable from an authorised annuity policy) and "pro-rata employment". It also amends the definition of "reckonable service" to bring it in line with the Teachers' Superannuation Regulations (Northern Ireland) 1998 and updates the definition of "Principal Regulations" so as to refer to the 1998 Regulations in place of the earlier 1977 Regulations.

Regulation 2(1) amends the definition of "insurance company" to take account of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001.

Regulation 2(2) amends regulation 5 of the 1996 Regulations and allows a teacher who elects for his lump sum death benefit to be used to purchase a pension policy to specify that such a pension is to be an Investment Linked Pension.

Regulation 2(3) amends regulation 10 of the 1996 Regulations to allow inward transfers to the AVC scheme to be made at any time by a person in pensionable employment in a free-standing scheme or an approved scheme.

Regulation 2(4) amends regulation 12(5) of the 1996 Regulations so that a teacher is no longer required to make a benefits election when nearing retirement. If he does so, however, he may elect that he is provided with a pension which is Investment Linked. Regulation 2(4) makes a corresponding amendment to regulation 12(8) of the 1996 Regulations so that if a teacher has not made a benefits election under paragraph (5) he may defer purchasing an annuity until he is 75. It also amends regulation 12(9) of those Regulations so that a lump sum payable under that paragraph is limited to 5 times the annual rate of the pension payable if the teacher had not died.

Regulation 2(5) amends the meanings of "average of the participator's salary" and "adjusted salary" in paragraph 4 of the Schedule to the 1996 Regulations so that where a teacher is in part-time employment remunerated on a pro-rata basis, "the salary" taken into account will be the equivalent full-time salary.

Regulation 2(6) amends paragraph 8 of the Schedule to the 1996 Regulations and inserts a new paragraph 8A, so that the retirement pension of teachers who joined the Teachers' Superannuation Scheme (under the Teachers' Superannuation Regulations (Northern Ireland) 1998 or the earlier 1977 Regulations which the 1998 Regulations replaced) on or after 1st September 1991 and who are "low earners" (those who earn less than one-quarter of the permitted maximum under section 590C of the Taxes Act in the first year of pensionable employment) will always be the relevant fraction of their final remuneration (that is, G as defined in paragraph 8(2)(a) of the Schedule to the 1996 Regulations).

These regulations have retrospective effect by virtue of regulation 1(2).

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