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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 495**

**EDUCATION**

**The Teachers' Superannuation (Amendment)  
(No. 2) Regulations (Northern Ireland) 2005**

*Made - - - - 10th November 2005*

*Coming into operation 5th December 2005*

The Department of Education, in exercise of the powers conferred on it by Article 11(1)(1), (2), (3), (3A)(2) and paragraphs 1, 3, 4, 5, 6, 8, 11 and 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(3) and of every other power enabling it in that behalf, and after consultation with representatives of local education authorities, 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(4), hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Teachers' Superannuation (Amendment) (No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on 5th December 2005.

**Amendment of the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996**

2. The Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996(5) shall be amended as provided by regulations 3 and 4.

3.—(1) Regulation 2 shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (1), after the definition of “child”, there shall be inserted—

““civil partner” is to be construed in accordance with the Principal Regulations;”.

(3) In paragraph (3), in the definition of “dependent” after “any surviving spouse”, there shall be inserted “or surviving civil partner”.

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(1) As amended by [S.I. 1990/1509 \(N.I. 13\)](#) Article 13(1)

(2) As amended by [S.I. 1990/1509 \(N.I. 13\)](#) Article 6(1)

(3) [S.I. 1972/1073 \(N.I. 10\)](#)

(4) Formerly Department of Finance; see [S.I. 1982/338 \(N.I. 6\)](#) Article 3

(5) [S.R. 1996 No. 260](#), amended by [S.R. 2001 No. 149](#) and [S.R. 2003 No. 86](#)

4. In regulation 11(2) for “regulation 75 of the Principal Regulations.” there shall be substituted “regulation F1 or F1A of the Principal Regulations.”

#### **Amendment of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991**

5. The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991(6) shall be amended as provided by regulations 6 and 7.

6. In regulation 2(2) after the definition of “child” there shall be inserted—

““civil partner” and “civil partnership” are to be construed in accordance with the Teachers' Superannuation Regulations (Northern Ireland) 1998(7);”.

7.—(1) Regulation 11 shall be amended as provided by paragraphs (2) and (3).

(2) For paragraph (3), there shall be substituted—

“(3) Unless the compensating authority determines otherwise in the particular case, long-term adult compensation—

(a) is not payable if, at the date of the deceased’s death, the person to whom it would (apart from this sub-paragraph) have been payable is living with someone as if they were husband and wife or as if they were civil partners, and

(b) ceases to be payable when the person to whom it was payable marries, forms a civil partnership or begins to live with someone as if they were husband and wife or as if they were civil partners.”.

(3) After paragraph (4) there shall be added—

“(5) For the purposes of this regulation, two people of the same sex are to be regarded as living together as if they were civil partners if they would be regarded as living together as husband and wife if they were not of the same sex.”.

#### **Amendment of the Teachers' Superannuation Regulations (Northern Ireland) 1998**

8. The Teachers' Superannuation Regulations (Northern Ireland) 1998 shall be amended in accordance with regulations 9 to 47.

9. In regulation B3 in paragraph (1)(b), after “maternity” in each case there shall be inserted “, paternity or adoption”.

10.—(1) Regulation C1 shall be amended as provided by paragraphs (2) to (5).

(2) In paragraph (1)(a)(ii) after “maternity,” there shall be inserted “, paternity or adoption,”.

(3) In paragraph (2) after “maternity leave” there shall be inserted “, paternity leave”.

(4) In paragraph (6) after “adoption leave” there shall be inserted “, paternity leave”.

(5) In paragraph (11) after “adoption leave” there shall be inserted “, paternity leave”.

11. In regulation C5, in paragraph (1), for “[date of commencement]” there shall be substituted “2nd November 1998”.

12. In regulation C8, after paragraph (2), there shall be added—

“(3) Parts IIA and III of Schedule 6 have effect for enabling family benefit contributions in respect of a civil partner’s reckonable service before 6th April 1988 to be paid.”.

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(6) S.R. 1991 No.132, amended by S.R. 2002 No. 393

(7) S.R. 1998 No. 333, amended by S.R. 2001 No. 149 and S.R. 2005 No. 181

13.—(1) Regulation D1 shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (1)(b) for “or F4(8) (receipt of transfer value),” there shall be substituted “, F4(8) (acceptance of transfer value) or F4A(3) (acceptance of transfer values as part of a bulk transfer),”.

(3) In paragraph (3)(b) after “maternity” there shall be inserted “, paternity or adoption”.

14. In regulation D2, in paragraph (b), after “regulation F1 or” there shall be inserted “F1A or in respect of which”.

15.—(1) Regulation E1 shall be amended as provided by paragraphs (2) to (5).

(2) In paragraph (3)(c) after “his guaranteed minimum,” the word “and” shall be omitted.

(3) In paragraph (3)(d) for “the period so prescribed.” there shall be substituted “the period so prescribed, and”.

(4) After paragraph (3)(d) there shall be inserted—

“(e) in the case of a person who dies at any time leaving a surviving civil partner who is not entitled to a pension as a surviving civil partner at a higher rate under these Regulations, the surviving civil partner is entitled to a pension in the circumstances and for the period set out in or prescribed under section 13 of the Pensions Act.”.

(5) In paragraph (4) for “a widower’s pension payable under paragraph (3)(d)” substitute “a widower’s or surviving civil partner’s pension payable under paragraph (3)(d or (e))”.

16. After regulation E1 there shall be inserted the following regulation—

**“Residual liability for guaranteed minimum pensions and for section 5(2B) rights**

**E1A.—**(1) This regulation applies where—

- (a) a person has exercised his right to a cash equivalent,
- (b) the other occupational pension scheme or personal pension scheme into which he has transferred or is in the course of transferring his cash equivalent is not willing or able to accept the cash equivalent of his guaranteed minimum pension or section 5(2B) rights, and
- (c) he has not transferred the cash equivalent of his guaranteed minimum pension or section 5(2B) rights into a policy described in section 15(4)(8) of the Pensions Schemes (Northern Ireland) Act(a) or a separate personal pension scheme.

(2) Where this regulation applies the person is entitled—

- (a) to a pension at a weekly rate equal to his guaranteed minimum from the date on which he attains state pensionable age;
- (b) to a lump sum and a pension in respect of his section 5(2B) rights from the date on which he attains the age of 60,

or to both.”.

17.—(1) Regulation E4 shall be amended as provided by paragraphs (2) to (5).

(2) In paragraph (3) in the first line, after “Case B”, the word “female” shall be omitted.

(3) Paragraph (3)(c) shall be omitted.

(4) Sub-paragraphs (d), (e), (f) and (g) of paragraph (3) shall be re-numbered (c), (d), (e) and (f) respectively.

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(8) Pension Schemes (Northern Ireland) Act 1993 (c. 49); section 5(2B) was inserted by Article 133(3) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(5) Regulation E4(3) shall cease to have effect as from 31st August 2006.

18. In regulation E8(1), for sub-paragraph (a), there shall be substituted

- “(a) (i) where his pensionable employment terminates before 5th December 2005, he had completed periods of the kinds described in Schedule 8 totalling at least 5 years, excluding any contributions refund period, or
- (ii) where his pensionable employment terminates on or after 5th December 2005, he had completed periods of the kinds described in Schedule 8 totalling at least 2 years, excluding any contributions refund period, and”.

19.—(1) Regulation E11 shall be amended as provided by paragraphs (2) to (4).

(2) In paragraph (2)(a) after “a surviving spouse” there shall be inserted “, surviving civil partner”.

(3) In paragraph (2)(b) after “spouse”, in each place where that word occurs, there shall be inserted “or civil partner”.

(4) In paragraph (4) after “spouse” there shall be inserted “civil partner”.

20. In regulation E19(1) for “E4(4)” there shall be substituted “E4(2), (4)”.

21. After regulation E19 there shall be inserted the following regulation—

**“Commutation: trivial pensions**

**E19A.**—(1) Where a person has become entitled to a retirement pension of a trivial amount, the Department may pay to that person a lump sum representing the capital value of that pension and of any benefits that might otherwise have become payable on that person’s death.

(2) A pension may not be treated as trivial if it includes a guaranteed minimum unless the person has reached state pensionable age or any pension in respect of the guaranteed minimum is otherwise payable.

(3) A pension may be treated as trivial only if the aggregate of all benefits does not exceed £260 per annum.

(4) Any lump sum payable under this regulation will be calculated by the Department, after taking advice from the Government Actuary.

(5) A deduction is to be made from any payment under this regulation for the amount of tax chargeable in respect of it under section 599 of the Taxes Act.

(6) A payment under this regulation shall discharge the Department’s liability in respect of that pension and of any benefits that might otherwise have become payable on that person’s death.”.

22.—(1) Regulation E20 shall be amended as provided by paragraphs (2) to (8).

(2) In paragraph (1) for “paragraph (6)” there shall be substituted “paragraphs (1A) and (6)”.

(3) At the end of paragraph (1)(c) the word “or” shall be inserted.

(4) After paragraph (1)(c) there shall be inserted—

“(d) was on unpaid maternity, paternity or adoption leave or parental leave.”.

(5) After paragraph (1) there shall be inserted—

“(1A) No death grant may be paid under paragraph (1)(c) in respect of a person to whom retirement benefits or a short-service incapacity grant calculated (in either case) by reference to the total of his reckonable service have been paid.”.

(6) In paragraph (6)(b) after “surviving spouse” there shall be inserted “, surviving civil partner”.

- (7) In paragraph (7) for sub-paragraph (a) there shall be substituted—
- “(a) if the deceased is survived by one widow, a widower or a surviving civil partner, to the widow, widower or surviving civil partner.”.
- (8) In paragraph (7)(c) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner.”.
- 23.**—(1) Regulation E21 shall be amended as provided by paragraphs (2) and (3).
- (2) In paragraph (6) for sub-paragraph (a) there shall be substituted—
- “(a) if the deceased is survived by one widow, a widower or a surviving civil partner, to the widow, widower or surviving civil partner.”.
- (3) In paragraph (6)(c) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.
- 24.**—(1) Regulation E22 shall be amended as provided by paragraphs (2) to (4).
- (2) In paragraph (1) after “widowers,” there shall be inserted “surviving civil partners,”.
- (3) In paragraph (5) for sub-paragraph (a) there shall be substituted —
- “(a) his legitimate or illegitimate child born during his lifetime or within 12 months of the date of his death or his adopted child, or”.
- (4) In paragraph (6) after “while he is unmarried” there shall be inserted “or not a civil partner”.
- 25.**—(1) Regulation E23 shall be amended as provided by paragraphs (2) to (4).
- (2) In paragraph (1) for “an unmarried person” there shall be substituted “a person who is not married or is not a civil partner”.
- (3) For paragraph (3) there shall be substituted—
- “(3) The eligible persons are—
- (a) a parent, brother or sister of the appointor who is not married or is not a civil partner and has never been married or a civil partner, and
- (b) a parent, step-parent, brother or sister of the appointor who is widowed or is a surviving civil partner.”.
- (4) In paragraph (4) for sub-paragraphs (a) and (b) there shall be substituted —
- “(a) if the person nominated dies, marries or forms a civil partnership; or
- (b) if the appointor marries or forms a civil partnership.”.
- 26.**—(1) Regulation E24 shall be amended as provided by paragraphs (2) to (4).
- (2) In paragraph (2)(a) after “surviving spouse” there shall be inserted “or surviving civil partner”.
- (3) For paragraph (3) there shall be substituted —
- “(3) But where, following the death of more than one person, more than two short-term pensions would (apart from this paragraph) be payable to, or for the benefit of, the same child, only the two short-term pensions which are greatest in value are payable to, or for the benefit of, that child.”.
- (4) In paragraph (4)(c) after “surviving spouse” there shall be inserted “, surviving civil partner”.
- 27.**—(1) Regulation E25 shall be amended as provided by paragraphs (2) to (4).
- (2) In paragraph (1)(a) after “maternity” there shall be inserted “, paternity or adoption”.

(3) In paragraph (2) after “surviving spouse” in both places where those words occur there shall be inserted “or surviving civil partner”.

(4) In paragraph (3) and the Table after “spouse” in both places where those words occur there shall be inserted “, civil partner”.

**28.** For regulation E26 there shall be substituted the following regulation—

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

**E26.**—(1) This paragraph applies on the death of a person (the “deceased”) who—

- (a) was in pensionable employment at any time after 31st March 1972, and
- (b) had relevant service (within the meaning of regulation E27) amounting to—
  - (i) at least 5 years in a case where the deceased ceased to be in pensionable employment before 6th April 1988, or
  - (ii) at least 2 years in a case where the deceased was in pensionable employment at any time after 5th April 1988.

(2) This paragraph applies on the death of a person (the “deceased”) who—

- (a) was in pensionable employment at any time after 31st March 1972, and
- (b) was qualified for retirement benefits.

(3) Where paragraph (1) applies, a long-term pension (determined in accordance with regulation E28) is payable to the deceased’s surviving spouse, his surviving civil partner or, where the conditions in paragraph (4) are satisfied, his nominated beneficiary.

(4) But where paragraph (1) applies, and the deceased is a woman, a long-term pension (determined in accordance with regulation E28) is payable to her widower and, where the conditions in paragraph (5) are satisfied, her nominated beneficiary.

(5) The conditions in this paragraph are that at the date of the deceased’s death—

- (a) the nomination under regulation E23 had effect, and
- (b) the nominated beneficiary was wholly or mainly financially dependent on the deceased.

(6) Where paragraph (1) or (2) applies, a long-term pension (determined in accordance with regulation E29) is payable to, or for the benefit of, a surviving child of the deceased or jointly to, or for the benefit of, his surviving children.

(7) But where, following the death of more than one person, more than two long-term pensions would (apart from this paragraph) be payable to, or for the benefit of, the same child, only the two pensions which are greatest in value are payable to, or for the benefit of, that child.”.

**29.**—(1) Regulation E27 shall be amended as provided by paragraphs (2) to (5).

(2) In paragraph (1) for “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,” there shall be substituted “Where the deceased is a man who is survived by a widow or by a nominated beneficiary in respect of whom the conditions in regulation E26(5) are satisfied, and where the deceased is a woman who is survived by a nominated beneficiary in respect of whom the conditions in regulation E 26(5) are satisfied or by a widower for whose benefit the deceased revoked a nomination which would otherwise have had effect or on whose marriage to her a nomination ceased to have effect, the deceased's”.

(3) In paragraph (2) for “in relation to a widower” there shall be substituted “Where the deceased is a woman who is survived by a widower”.

(4) After paragraph (2) there shall be inserted—

“(2A) Where the deceased is survived by a surviving civil partner, the deceased’s relevant service comprises, subject to paragraph (3)—

- (a) any period of pensionable employment after 5th April 1988;
- (b) any period beginning after 5th April 1988 in respect of which additional contributions have been paid under regulation C6 or C7;
- (c) any period in respect of which additional contributions have been paid under regulation C3 or C4 in accordance with an election made on or after 6th April 1988;
- (d) any period of reckonable service in respect of which family benefit contributions have been paid under Part IIA of Schedule 6 or are treated as having been paid under Part III of that Schedule in respect of an election made under Part IIA of that Schedule;
- (e) where a transfer value has been accepted in respect of comparable service, any period which consists of or is attributable to service after 5th April 1988; and
- (f) where the deceased entered pensionable employment after 5th April 1988 and a transfer value (other than one mentioned in sub-paragraph (e)) was accepted, any period counting as reckonable service by virtue of the acceptance of the transfer value.”.

(5) In paragraph (3) at the end the full stop shall be omitted and there shall be added “or any period in respect of which a transfer value or cash equivalent has been paid by the Department under these Regulations”.

**30.**—(1) Regulation E28(9) shall have a new heading “Amount of surviving spouse's, surviving civil partner's or nominated beneficiary's long-term pension” and that regulation shall be amended as provided by paragraphs (2) to (8).

(2) In paragraph (1) after “surviving spouse” there shall be inserted “, surviving civil partner”.

(3) In paragraph (2A) after “surviving spouse” there shall be inserted “, surviving civil partner”.

(4) In paragraph (3) at the end the full stop shall be omitted and there shall be added “or any period in respect of which a transfer value or cash equivalent has been paid by the Department under these Regulations”.

(5) In paragraph (4) after “widower” there shall be inserted “for whose benefit the deceased revoked a nomination which would otherwise have had effect or”.

(6) After paragraph (6)(b) there shall be inserted —

“(bb) any period beginning after that date for which additional contributions have been paid under regulation C6 or C7.”

(7) After paragraph (7) there shall be inserted —

“(7A) If the pension is payable to a surviving civil partner, the deceased’s family benefit service, subject to paragraphs (3) and (8) to (10), comprises the relevant service described in regulation E27(2A).”.

(8) In paragraph (9) for “paragraphs (3) to (7)” in both places where those words occur there shall be substituted “paragraphs (3) to (5), (7) and (7A)”.

**31.**—(1) Regulation E29 shall be amended as provided by paragraphs (2) to (8).

(2) In paragraph (1) for “paragraphs (3) to (6)” there shall be substituted “paragraphs (1A) and (3) to (5)”.

(3) In paragraph (1)(a) after “surviving spouse” there shall be inserted “, surviving civil partner”.

(4) After paragraph (1) there shall be inserted —

“(1A) Where an adult pension is payable to the surviving civil partner of —

(a) a man, or

(b) a woman whose nomination under regulation E23 ceased to have effect when she formed a civil partnership,

the annual rate of the children’s pension is the appropriate fraction of the deceased’s average salary multiplied by the sum of the notional family benefit service and the additional family benefit period.”.

(5) In paragraph (3) for “paragraphs (4) to (6)” there shall be substituted “paragraphs (4) and (5)”.

(6) In paragraph (3)(c) for “what would have been his family benefit service if regulation E28(4) had applied (“the notional family benefit service”)” there shall be substituted “the notional family benefit service”.

(7) In paragraph (5) for “C is the notional family benefit service,” there shall be substituted “C is the sum of the notional family benefit service and the additional family benefit period,”.

(8) After paragraph (6) there shall be added—

“(7) The notional family benefit service is the period (in years) which would have been the deceased’s family benefit service if regulation E28(4) had applied.

(8) The additional family benefit period is the period (in years) of the deceased’s reckonable service (other than a period which counts as part of the notional family benefit service) in respect of which family benefit contributions have been paid under Part IIA of Schedule 6 or are treated as having been paid under Part III of that Schedule in respect of an election made under Part IIA of that Schedule.”.

**32.—**(1) Regulation E30 shall be amended as provided by paragraphs (2) to (5).

(2) In paragraph (1) after “surviving spouse” there shall be inserted “, surviving civil partner”.

(3) For paragraph (3) there shall be substituted —

“(3) Unless the Department determines otherwise, in the particular case, an adult pension—

(a) is not payable if, at the date of the deceased’s death, the person to whom it would (apart from this sub-paragraph) have been payable is living with someone as if they were husband and wife or as if they were civil partners, and

(b) ceases to be payable when the person to whom it was payable marries, forms a civil partnership or begins to live with someone as if they were husband and wife or as if they were civil partners.”.

(4) After paragraph (3) there shall be inserted —

“(3A) But paragraph (3) does not apply to so much of any pension as is payable in respect of section 5(2B) rights to a widow or widower whose entitlement arose from a death occurring before 5th December 2005 and who forms a civil partnership or lives with someone as if they were civil partners.

(3B) For the purposes of this regulation, two people of the same sex are to be regarded as living together as if they were civil partners if they would be regarded as living together as husband and wife if they were not of the same sex.”.

(5) In paragraph (4)(a) after “surviving spouse” there shall be inserted “, surviving civil partner”.



- 33.**—(1) Regulation E31 shall be amended as provided by paragraphs (2) and (3).
- (2) In paragraph (3)(c) for “a transfer value has been received” there shall be substituted “a transfer value has not been paid”.
- (3) In paragraph (7)(a) after “maternity” there shall be inserted “, paternity or adoption”.

- 34.**—(1) Regulation E33 shall be amended as provided by paragraphs (2) and (3).
- (2) In paragraph (4) after “paragraphs” there shall be inserted “(4A) and”.
- (3) After paragraph (4) there shall be inserted —
- (a) “(4A) Where a written application is made to the Department, a benefit that does not consist of a single payment may be paid quarterly.
  - (b) The first payment under this paragraph is to be made two months after the day on which it would have been made if no such application had been made, and subsequent payments, if any, are to be made at quarterly intervals thereafter.
  - (c) In relation to a payment made under this paragraph
    - (i) paragraphs (5) and (6) shall have effect as if for “month” there were substituted “quarter”, and
    - (ii) paragraph (7) shall have effect as is for “(A/12)” and “month” there were substituted “(A/4)” and “quarter” respectively.”.

- 35.** After regulation F1 there shall be inserted the following regulation—

**“Bulk Transfers**

**F1A.**—(1) This regulation applies where as the result of a transfer of undertakings to a new employer a person or a group of persons is no longer in pensionable employment of a kind referred to in B1(1), and either has joined or is entitled to join the new employer’s pension scheme (“the receiving scheme”) referred to in this regulation as a “bulk transfer”.

(2) Subject to regulation F1(4) a transfer value may be calculated by the Department, after taking advice from the Government Actuary, in respect of a person who has made a written application to the Department for such a transfer within 3 months of the date on which he was notified of the opportunity to take part in the bulk transfer arrangement.

(3) Such transfer value may be paid to the receiving scheme on the person being subject to that scheme.”.

- 36.**—(1) Regulation F2 shall be amended as provided by paragraphs (2) and (3).
- (2) In paragraph (2)(a) after “(receipt of transfer value)” there shall be inserted “or F4A(3) (acceptance of transfer values as part of a bulk transfer)”.
- (3) In paragraph (3) after “regulation F4” there shall be inserted “or F4A”.

- 37.** In regulation F3, in paragraph (a) after “regulation F1” there shall be inserted “or F1A”.

- 38.**—(1) Regulation F4 shall be amended as provided by paragraphs (2) and (3).
- (2) In paragraph (1) after “Subject to paragraphs (2) to (6)” there shall be inserted “and to regulation F4A”.
- (3) For paragraph (5) there shall be substituted —
- “(5) A transfer value shall not be accepted if one was accepted before 2nd November 1998 in relation to the same transfer.”

- 39.** After regulation F4 there shall be inserted the following regulation—

**“Acceptance of transfer values as part of a bulk transfer**

**F4A.**—(1) This regulation applies where, as the result of a transfer of undertakings to a new employer, a person or a group of persons has become employed in pensionable employment and is given the opportunity to transfer past pension service rights, referred to in this regulation as a “bulk transfer”.

(2) Subject to regulation F4(5) and (6), a transfer value may be accepted by the Department in respect of a person who has made a written application within 3 months of the date on which that person was notified of the opportunity to take part in the bulk transfer.

(3) A person in respect of whom a transfer of such rights has been accepted as part of a bulk transfer is entitled to count reckonable service in accordance with the agreed terms of the bulk transfer, the Department having taken advice from the Government Actuary.”.

**40.** In regulation G2(10), in paragraph (4)(b), for “regulation F4” there shall be substituted “regulations F4 and F4A”.

**41.** In regulation G3, in paragraph (d), after “regulation F1” there shall be inserted “or F1A”.

**42.** In regulation H2, in paragraph (1)(g), after “maternity” there shall be inserted “, paternity or adoption”.

**43.**—(1) Regulation I6(11) shall be amended as provided by paragraphs (2) and (3).

(2) For paragraph (5)(a) there shall be substituted —

“(a) if the deceased is survived by one widow, a widower or a surviving civil partner, to the widow, widower or surviving civil partner,”.

(3) In paragraph (5)(c) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.

**44.** In Schedule 1, the following definitions shall be added at the appropriate places in alphabetical order—

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““Adoption leave”	Adoption leave within the meaning of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002(12);
“Civil partnership”	A civil partnership which exists under or by virtue of the Civil Partnership Act 2004(13) (and any reference to a civil partner is to be read accordingly);
“Maternity leave”	Leave within the meaning of Part II of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999(14);
“Parental leave”	Leave within the meaning of Part III of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999;

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(10) As amended by S.R. 2005 No. 181, regulation 5

(11) Part I was inserted by S.R. 2001 No. 149, Schedule 1.

(12) S.R. 2002 No. 377

(13) 2004 c. 33

(14) 1999 No. 471

“Paternity leave”	Paternity leave within the meaning of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002;
“Pensions Act”	Pensions Schemes (Northern Ireland) Act 1993 <sup>(15)</sup> ;
“Section 5(2B) Rights”	Rights (other than rights attributable to voluntary contributions within the meaning of section 107 of the Pensions Act) which are attributable to an earner’s service (within the meaning of sections 3, 4 and 112 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 <sup>(16)</sup> ) on or after 6th April 1997 in employment which is contracted out in accordance with section 5(2B) of the Pensions Act;
“Taxes Act”	The Income and Corporation Taxes Act 1988 <sup>(17)</sup> .”

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45. In Schedule 6 after Part II there shall be inserted the following Part—

## “PART IIA

### CONTRIBUTIONS CIVIL PARTNERS

13A.—(1) A person is a qualifying person for the purposes of this Part if he is—

- (a) a civil partner, and
- (b) in pensionable employment.

(2) A qualifying person may by giving notice in writing to the Department before the end of the election period elect to pay family benefit contributions attributable to a period of his reckonable service which ended before 6th April 1988.

(3) If a qualifying person dies before the end of the election period without making an election under sub-paragraph (2), his surviving civil partner may by giving notice in writing to the Department within 3 months of the qualifying person’s death elect to pay family benefit contributions attributable to a period of the qualifying person’s reckonable service which ended before 6th April 1988.

(4) The election period begins on the day on which a person first becomes a qualifying person (in respect of each civil partnership he forms) and ends on the earlier of the day on which—

- (a) any election he makes under regulation B4 has effect, and
- (b) he has been a qualifying person for a continuous period of 6 months.

(5) The person who makes an election under this paragraph must specify in the notice the period in respect of which the election is made, which must be either the whole of the qualifying person’s reckonable service which ended before 6th April 1988 or such part of such service as consists of one or more whole years.

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<sup>(15)</sup> 1993 c. 49

<sup>(16)</sup> 1992 c. 7

<sup>(17)</sup> 1988 c. 1

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(6) Where an election is made under sub-paragraph (2), the qualifying person must state in the notice whether family benefit contributions are to be paid by Method 1 (monthly payments) or by Method 2 (lump sum) and, if the former, must specify a percentage rate of his contributable salary at which they are to be paid which must comply with paragraphs 14(2) and (3).

(7) Where a qualifying person's pensionable employment is part-time, for the purpose of specifying (under sub-paragraph (6) a percentage rate at which family benefit contributions are to be paid or varying (under paragraph 14(4) that rate, sub-paragraph (6) and paragraph 14(2) have effect as if the reference to the qualifying person's contributable salary were to his full-time equivalent salary.

(8) Except as provided in paragraph 14(4), an election under this paragraph is irrevocable.

**13B.**—(1) This paragraph applies where—

- (a) the qualifying person states under paragraph 13A(6) (in accordance with an election made under paragraph 13A(2)) that family benefit contributions are to be paid by Method 1, and
- (b) the payment period exceeds a year.

(2) Where this paragraph applies, except as otherwise provided in Part III, the qualifying person must pay family benefit contributions to the Department by way of monthly payments from his contributable salary at the percentage rate specified under paragraph 13A(6) or, where the rate is varied under paragraph 14(4), at the specified higher rate for the duration of the payment period.

(3) Except as otherwise provided in Part III, the payment period (in years) is the period in respect of which the election is made specified under paragraph 13A(5) (in years) multiplied by the multiplier ascertained from Table 5A.

**TABLE 5A**

<i>Rate specified under paragraph 13A(6)</i>	<i>Multiplier</i>	
	<i>Where qualifying person is a man</i>	<i>Where qualifying person is a woman</i>
1%	1.90	1.70
2%	0.95	0.81
3%	0.64	0.54
4%	0.48	0.39
5%	0.38	0.32
6%	0.31	0.26
7%	0.27	0.21
8%	0.24	0.19
9%	0.21	0.16

(4) Where the payment period would (apart from this sub-paragraph) end on a day other than the last day of a month, the payment period ends with the last day of the month in which it would otherwise end.

**13C.**—(1) Except where paragraph 13B applies, the person who makes an election under paragraph 13A must pay family benefit contributions to the Department by way of a lump sum

calculated in accordance with the Method 2 formula in sub-paragraph (2) within 3 months of receiving written notice of the amount of the lump sum.

(2) The Method 2 formula is—

$$A \times B \times C,$$

where—

A is 1.9% if the qualifying person is a man and 1.7% if the qualifying person is a woman,

B is the period (in years) specified under paragraph 13A(5), and

C is the annual rate of the qualifying person's contributable salary.”

**46.**—(1) In Schedule 6, Part III shall be amended as provided by paragraphs (2) to (6).

(2) In paragraph 14(1)(a) omit “or”.

(3) In paragraph 14(1)(b) the full stop shall be omitted and for the words “Method A” there shall be substituted “Method A; or”.

(4) After paragraph 14(1)(b) there shall be inserted —

“(c) family benefit contributions are payable by monthly payments under paragraph 13B (Method 1).”

(5) After paragraph 14(10) there shall be added—

“(11) Where the person is paying an additional contribution under regulation C6 or C7 for any financial year, the family benefit contributions for that financial year are calculated by reference to the notional salary on which the additional contribution is payable and must be paid to the Department by the same day as the additional contribution.”

(6) In paragraph 16 for “or widower” there shall be substituted “, widower, surviving civil partner”.

**47.** In Schedule 10, in paragraph 10(4), after “surviving spouse” there shall be inserted “or surviving civil partner”.

### **Election in respect of protected benefit**

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

(a) to whom a protected benefit is being paid or may become payable, and

(b) who is placed in a worse position than he would have been in if a provision made by these Regulations (“the relevant provision”) had not applied in relation to the protected benefit.

(2) A protected benefit is one which is being paid or may become payable under the Teachers' Superannuation Regulations (Northern Ireland) 1998 to, or in respect of, a person who was employed in qualifying employment but ceased to be employed, or died, before 5th December 2005.

(3) A person to whom this regulation applies may, by giving written notice to the Department before 5th December 2005, elect that the relevant provision shall not apply in relation to the protected benefit.

(4) If the election under paragraph (3) is made in relation to a benefit of a person who is in pensionable employment or who subsequently becomes re-employed in pensionable employment—

(a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue—

(i) of periods of reckonable service before the cessation referred to in paragraph (2) (or, if there had been more than one cessation, the last of them before 5th March 2006), or

(ii) of contributions paid in respect of such periods of reckonable service, and

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(b) in determining entitlement to, or the amount of, the benefit to that extent he shall be treated as if he had never re-entered pensionable employment again at any time after the cessation referred to in paragraph (2) (but without prejudice to the application of this paragraph), and the Teachers' Superannuation Regulations (Northern Ireland) 1998 shall apply accordingly.

(5) In paragraph (2) "qualifying employment" means pensionable employment or excluded employment within the meaning of the Teachers' Superannuation Regulations (Northern Ireland) 1998.

Sealed with the Official Seal of the Department of Education on 10th November 2005.

L.S.

*C. Jendoubi*  
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 10th November 2005.

L.S.

*R. Pengelly*  
A senior officer of the  
Department of Finance and Personnel

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations further amend the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996 ("the AVC Regulations"), the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991 ("the Compensation Regulations") and the Teachers' Superannuation Regulations (Northern Ireland) 1998 ("the Pensions Regulations").

The Pensions Regulations are the basis upon which the Northern Ireland Teachers' Pension Scheme ("the Scheme") operates. The AVC Regulations enable Scheme members to pay additional voluntary contributions. The Compensation Regulations provide for compensation to be paid to teachers in certain circumstances on termination of employment.

Most of the amendments in these Regulations make provision following the creation of the status of civil partner by the Civil Partnership Act 2004. In addition to minor and drafting amendments and those which correct errors, the following changes are made.

Regulation 3(3) amends regulation 2 of the AVC Regulations so that "dependent" includes a surviving civil partner.

Regulation 7 amends regulation 11 of the Compensation Regulations to provide for the circumstances in which long-term compensation ceases to be payable.

Regulations 9, 10, 13(3), 22(3) and (4), 27(2), 33(3) and 42 enable periods of paternity and adoption leave to be treated in the same way as periods of maternity leave.

Regulation 11 corrects an error in regulation C5 of the Pensions Regulations, in relation to the date of commencement of those Regulations.

Regulations 12, 45, 46(2) – (4) and (6) amend regulation C8 of and Schedule 6 to the Pensions Regulations to enable a Scheme member who forms a civil partnership to pay family benefit contributions in respect of periods of his service prior to 6th April 1988.

Regulations 13(2), 38(2), 39 and 40 insert a new regulation in the Pensions Regulations and make other amendments to enable the Scheme to accept transfers as part of a "bulk" transfer from other pension schemes in addition to on an individual basis.

Regulations 14, 35, 37 and 41 introduce a new regulation F1A to enable a transfer value to be paid, subject to the Government Actuary's advice, on terms that are preferential to the usual cash equivalent basis in circumstances where the employment of one or more teachers is compulsorily transferred to a new employer and he or they are unable to remain in the Northern Ireland Teachers' Superannuation Scheme.

Regulation 15 amends regulation E1 to require a pension to be paid in certain circumstances to a surviving civil partner of a Scheme member who had a guaranteed minimum pension (within the meaning of the Pensions Schemes (Northern Ireland) Act 1993(a)).

Regulation 16 makes provision for benefits in respect of a person's guaranteed minimum pension rights to be paid at state retirement age and for benefits in respect of a teacher's section 5(2B) rights (namely, rights attributable to a teacher's service in contracted-out employment on or after 6 April 1997) to be paid at age 60 where he has transferred his accrued rights in excess of those benefits to non-contracted-out pension scheme.

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Regulation 17 amends regulation E4 of the Pensions regulations. The amendment allows men to retire at age 55 in the same circumstances as women. However these provisions which permit such retirement will cease to have effect as from 31st August 2006.

Regulation 18 amends regulation E8 of the Pensions Regulations to reduce from 5 years to 2 years the period needed to qualify for enhanced ill-health retirement benefits in respect of teachers who retire on grounds of incapacity where pensionable or excluded employment terminates on or after 5th December 2005.

Regulations 19 and 47 amend regulation E11 and Schedule 10 to enable a Scheme member to allocate his pension to provide an alternative benefit for his civil partner.

Regulation 20 extends the option of commuting pensions on the grounds of exceptional circumstances of ill-health to those who retire at age 60.

Regulation 21 inserts a new regulation E19A into the Pensions Regulations to enable pensions which do not exceed £260 per annum to be commuted.

Regulations 22(2) and (5) clarifies the position with regard to eligibility for death grants paid under regulation E20 of the Pensions Regulations.

Regulations 22(6), (7) and (8), 23 and 43 amend regulation E20, E21 and I6 to require any death grant or supplementary death grant to be paid, in the absence of a nominee, to the Scheme member's surviving civil partner in the first instance.

Regulations 24(2), 26, 27(3) and (4), 28, 29(2) and (4) and 30(2), (3), (7) and (8) amend regulations E22 and E24 to E28 to provide for short- and long-term pensions to be paid to surviving civil partners of Scheme members.

Regulation 24(3) amends regulation E22 to ensure that a teacher's natural children must be born, at the latest, 12 months after his death to be entitled to family benefits.

Regulation 24(4) further amends regulation E22 so that a "child" for the purposes of the Pensions Regulations does not include someone who is a civil partner.

Regulation 25 amends regulation E23 so that a civil partner cannot nominate, or be nominated as, a beneficiary to receive a survivor's pension.

Regulation 28 (insofar as it relates to new regulation E26(4)), 29(2) and 30(6) clarify the circumstances in which a survivor's pension is payable to both a widower and a beneficiary on the death of certain women members of the Scheme. No change of effect is intended.

Regulation 30(6) rectifies errors in regulation E28 of the Pensions Regulations which relate to the enhancement of benefits in certain circumstances.

Regulation 31 amends regulation E29 to provide for the calculation of long-term pensions payable to the children of Scheme members who are civil partners.

Regulation 32 amends regulation E30 which provides for the circumstances in which a survivor's pension ceases to be payable.

Regulation 34 amends regulation E33 to enable pensions to be paid quarterly.

Regulation 38(3) corrects an error in regulation F4 of the Pensions Regulations.

Regulation 44 adds a number of definitions to Schedule 1 to the Pensions Regulations.

Regulation 45 inserts a new Part 11A into Schedule 6.

Regulation 46(5) amends paragraph 14 of Part 111 of Schedule 6 to make it clear that a person paying family benefit contributions who ceases to be in pensionable employment but elects to pay an additional contribution under regulation C6 or C7 must continue to pay family benefit contributions based on his notional salary calculated in accordance with regulation C6 or C7.

Regulation 48 makes transitional provision for opting out where rights in relation to former Scheme members are adversely affected.



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A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.