

2015 No. 126

PUBLIC SERVICE PENSIONS

EDUCATION

**The Teachers' Pensions (Miscellaneous Amendments)
Regulations (Northern Ireland) 2015**

Made - - - -

6th March 2015

Coming into operation -

1st April 2015

The Department of Education makes the following Regulations in exercise of the powers conferred by Articles 11(1)(a), (2), (3), (3A)(b) and paragraphs 1, 3, 4, 5, 6, 8, 11 and 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(c) (the 1972 Order) and by sections 1, 3, 4(1) and (5), 5 (1) and (5), 7(1) and (4) and 12(1), (6) and (7) of the Public Service Pensions Act (Northern Ireland) 2014(d) (the 2014 Act).

In accordance with Article 11(5) of the 1972 Order consultation has taken place with representatives of local education authorities and of teachers and with representatives of other persons likely to be affected.

In accordance with section 21 of the 2014 Act, the Department has consulted the representatives of such persons as appear to it likely to be affected by these Regulations.

In accordance with Article 11(1) of the 1972 Order these Regulations are made with the consent of the Department of Finance and Personnel(e).

In accordance with section 3(5) of the 2014 Act the Department of Finance and Personnel has consented to the making of the Regulations.

Citation, commencement and interpretation

1. These Regulations may be cited as the Teachers' Pensions (Miscellaneous Amendments) Regulations (Northern Ireland) 2015 and shall come into operation on 1st April 2015.

2. In these Regulations—

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

(a) As amended by S.I. 1990/1509 (N.I. 13) Article 13(1)

(b) As amended by S.I. 1990/1509 (N.I. 13) Article 6(1)

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

(d) 2014 C.2 (N.I.).

(e) Formerly Department of Finance: see S.I. 1982/338 (N.I. 6) Article 3

“the 2014 Regulations” means the Teachers’ Pension Scheme Regulations (Northern Ireland) 2014**(b)**.

Amendment of the 1998 Regulations

3. The 1998 Regulations shall be amended in accordance with regulations 4 and 5.
4. Omit regulations G2, G3 and G4.
5. For regulation G5 substitute—

“Employers’ contributions

G5.—(1) In respect of each pay period, the employer of a person (P) in pensionable service in that pay period is to pay contributions on P’s pensionable earnings in the pay period at the following percentage rate of those earnings—

- (a) 17.7% from 1st April 2015;
- (b) at the rate determined in each successive valuation report with effect from the date to be notified to employers by the Department.

(2) No contributions are to be paid in respect of any person to whom regulation E32(2)(a) (restriction of reckonable service to 45 years) has become applicable.”.

Amendment of the 2014 Regulations

6. The 2014 Regulations shall be amended in accordance with regulations 7 to 25.

Amendment of regulation 3 (Interpretation)

7. In regulation 3, in the definition of “scheme manager” for “means the Department” substitute “has the meaning given in regulation 7”.

Amendment of regulation 7 (Scheme Manager)

8. After regulation 7 insert—

“(4) Where the Department’s functions as scheme manager have been delegated to a person, any reference to the Department in relation to those functions in Parts 3 to 11 and Schedules 1 to 4 shall be construed as a reference to that person.”.

Amendment to regulation 10 (Conflict of Interest)

9. In regulation 10, in the heading for “Conflict of interest” substitute “Northern Ireland Teachers’ Pension Scheme Pension Board–Conflict of interest”.

Amendment to regulation 13 (Conflict of Interest)

10. In regulation 13, in the heading for “Conflict of interest” substitute “Northern Ireland Teachers’ Pension Scheme Advisory Board–Conflict of interest”.

Amendment to regulation 65 (Deferred member’s account closed after service under another public service scheme)

11. In paragraph (1)(c) of regulation 65, for “less than 5 years” substitute “5 years or less”.

(a) S.R. 1998 No. 333
(b) S.R. 2014 No. 310

Substitution of regulation 192 (Employers' contributions)

12. For regulation 192 substitute—

“**192.** In respect of each pay period, the employer of a person (P) in pensionable service in that pay period is to pay contributions on P's pensionable earnings in the pay period at the following percentage rate of those earnings—

- (a) 17.7% from 1st April 2015;
- (b) at the rate determined in each successive valuation report with effect from the date to be notified to employers by the Department.”.

Insertion of regulation 225 (Scheme valuation and employer cost cap)

13. After regulation 224 (transitional provisions) insert—

“Scheme valuation and employer cost cap

225. Schedule 4 (scheme valuation and employer cost cap) has effect.”.

Amendment to Schedule 1 (Eligible Employment)

14. In paragraph 1(8) of Schedule 1 for “sub-paragraphs (3) to (6)” substitute “sub-paragraphs (3) to (5)”.

Amendment to paragraph 30 (Making a buy-out election) of Schedule 2 (Scheme flexibilities)

15. In paragraph 30 of Schedule 2, for sub-paragraph (3)(a), substitute “if P is in more than one eligible employment, the names of the employers in relation to P's eligible employments.”

Amendment to paragraph 1 (Interpretation) of Schedule 3 (Transitional provisions)

16. In paragraph 1 of Schedule 3, in the definition of “transition date” in sub-paragraph (b) omit “by virtue of the application of paragraph 22”.

Amendment to paragraph 26 (Application of existing scheme regulations) of Schedule 3 (Transitional provisions)

17. In paragraph 26 of Schedule 3—

- (a) in sub-paragraph (1), after “in relation to the calculation”, insert “and payment”;
- (b) after sub-paragraph (3) insert—

“(4) For the purpose of determining P's entitlement to retirement benefits, P's pensionable employment under the existing scheme terminates when P's pensionable service under this scheme terminates.”

Amendment to paragraph 28 (Annual rate of pension) of Schedule 3 (Transitional provisions)

18. In paragraph 28, after “provided otherwise in” insert “paragraph 33 (application for payment of ill-health pensions) and”.

Amendment to paragraph 29 (Application for payment of age retirement pension) of Schedule 3 (Transitional provisions)

19. In paragraph 29 of Schedule 3, in sub-paragraph (2), after “normal pension age under this scheme” insert “and who has ceased being in pensionable service in this scheme”.

Amendment to paragraph 31 (Application for payment of premature retirement pension) and paragraph 32 (Application for payment of early retirement pension) of Schedule 3 (Transitional provisions)

20. In paragraphs 31 and 32 of Schedule 3, for “as part of”, where these words occur, substitute “in addition to”.

Amendment to paragraph 33 (Application for payment of ill-health pension) of Schedule 3 (Transitional provisions)

21. In paragraph 33 of Schedule 3—

- (a) in sub-paragraph (1)(b), omit “after that date”.
- (b) for sub-paragraph (2), substitute—

“(2) If P makes an application for payment of an ill-health pension on or after P’s transition date, which is successfully determined before P’s normal pension age in the existing scheme—

- (a) before P’s normal pension age in the existing scheme, P will receive under this scheme an amount equivalent to any benefits due to P in respect of P’s pensionable service in this scheme and in the existing scheme, in accordance with paragraph 33A;
- (b) from P’s normal pension age in the existing scheme, P will receive, in accordance with paragraph 33B—
 - (i) under the existing scheme, any benefits due to P in respect of P’s pensionable service in the existing scheme; and
 - (ii) under this scheme, any benefits due to P in respect of P’s pensionable service in this scheme.”.

Insertion of paragraphs 33A and 33B into Schedule 3 (Transitional provisions)

22. After paragraph 33 of Schedule 3, insert—

“Transition member who has not reached normal pension age under the existing scheme

33A.—(1) This paragraph applies in relation to a transition member (P) who—

- (a) becomes entitled to an ill-health pension under this scheme; and
- (b) has not reached normal pension age under the existing scheme.

(2) If this paragraph applies—

- (a) an ill-health pension is not payable to P under the existing scheme until P’s normal pension age in that scheme; and
- (b) an ill-health pension is payable to P under this scheme, determined in accordance with sub-paragraph (3).

(3) If this paragraph applies, the following are payable to P—

- (a) an ill-health pension, the annual rate of which is the sum of—
 - (i) P’s annual rate of ill-health pension calculated under regulation 113 (annual rate of ill-health pension) of these Regulations;
 - (ii) the annual rate of retirement pension that would, if P was entitled to payment of an ill-health pension under the existing scheme, be payable to P under the existing scheme regulations, excluding any total incapacity pension payable under regulation E8A (total incapacity benefit where application received on or after 6 April 2007) of the existing scheme and adjusted following any

election by P under regulation E6A of those regulations (lump sum in place of part of pension); and

(iii) the annual rate of total incapacity pension, if any, payable under regulation 116 (entitlement to total incapacity pension) of these Regulations;

(b) (i) any lump sum payable to P under regulation 168 (commutation of part of pension) of these Regulations; and

(ii) the amount of any lump sum that would have been payable to P had P been entitled to payment of an ill-health pension under the existing scheme, including any lump sum payable under regulation E6A (lump sum in place of part of pension) of the existing scheme regulations, if P makes such an election.

(4) P's entitlement to the pension payable under sub-paragraph (3)(a)(ii) is subject to the same conditions, and ceases to be payable in the same circumstances, as the pension which P would have received, had P been entitled to payment of an ill-health pension under the existing scheme in accordance with the existing scheme regulations.

(5) If—

(a) a transfer of benefits takes place from the existing scheme prior to the existing scheme normal pension age, P's entitlement to the pension payable under sub-paragraph (3)(a)(ii) comes to an end;

(b) a phased or an early retirement pension with actuarial adjustment is taken under Part E (benefits) to the existing scheme regulations, the pension payable under sub-paragraph (3)(a)(ii) is reduced by an amount equivalent to the value of—

(i) any phased retirement benefits taken from the existing scheme, including any a lump sum;

(ii) any early retirement pension with actuarial adjustment from the old scheme, including any lump sum.

(6) If this paragraph applies, P may not apply under the existing scheme for retirement benefits under Case G as provided in regulation E4 (entitlement to payment of retirement benefits) of the existing scheme regulations.

Transition member in receipt of an ill-health pension who has reached normal pension age under the existing scheme

33B.—(1) This paragraph applies in relation to a transition member (P) in receipt of an ill-health pension in accordance with paragraph 33A.

(2) When P reaches normal pension age under the existing scheme, the benefit which is payable under paragraph 33A in respect of P's service in the existing scheme ceases to be payable under this scheme, and becomes payable under the existing scheme, in accordance with the existing scheme regulations.

(3) In calculating the annual rate of pension payable under the existing scheme for the purposes of sub-paragraph (2), the following are taken into account—

(a) any lump sums paid out, under the existing scheme or this scheme, including by an election under regulation E6A (lump sum in place of part of pension) or by commutation under regulation E19 (commutation: exceptional circumstances of ill-health) or regulation E19A (commutation: trivial pensions) of the existing scheme regulations;

(b) any transfer payment made to another scheme before the member reached normal pension age under the existing scheme.

(4) Before the payments in sub-paragraph (3)(a) and (b) are taken into account, they must be increased by the amount by which the annual rate of a retirement pension of that amount

would have been increased under the Pensions (Increase) Act (Northern Ireland) 1971(a) if—

- (a) that pension was eligible to be so increased; and
- (b) the entitlement day for that pension was the date P’s ill-health pension became payable under this scheme.”

Amendment to paragraph 48 (Application for payment of benefits for pension credit members) of Schedule 3 (Transitional provisions)

23. In paragraph 48—

- (a) in sub-paragraph 1—
 - (i) for “transition member” substitute “pension credit member”;
 - (ii) after “member (P)” insert “with pension credit rights in this scheme and the existing scheme”;
 - (iii) after “will receive” insert “under the existing scheme”;
- (b) in sub-paragraph (2)—
 - (i) after “P may apply” insert “under this scheme”;
 - (ii) after “for payment” omit “from this scheme”.

Amendment to paragraph 53 (Transfer payments) of Schedule 3 (Transitional provisions)

24. After paragraph 53 of Schedule 3 insert “in respect of which pension benefits have not been taken”.

Insertion of new Schedule 4 (Scheme valuation and employer cost cap)

25. After Schedule 3, insert—

“**SCHEDULE 4**

Regulation 225

Scheme valuation and employer cost cap

Scheme valuation report

1. The Department must commission the scheme actuary to carry out a valuation of this scheme (“scheme valuation”) and any connected scheme, and to prepare a scheme valuation report, in accordance with, and by reference to the effective dates defined and set out in Department of Finance and Personnel directions under section 11 of the Public Service Pensions Act (Northern Ireland) 2014, referred to in this Schedule as “Department of Finance and Personnel directions”.

Employer cost cap

2. The employer cost cap for this scheme is 13.2% of the pensionable earnings of members of this scheme.

Breach of employer cost cap margins

3. If the scheme actuary reports in a valuation report that the cost cap cost of the scheme, calculated following a valuation in accordance with Department of Finance and Personnel

(a) 1971 c.35 (NI)

directions, has gone beyond the margins specified in Department of Finance and Personnel directions under section 12 of the Public Service Pensions Act (Northern Ireland) 2014, paragraph 4 applies.

Northern Ireland Teachers' Pension Scheme Advisory Board Report

4. Where this paragraph applies, the Department must request the Northern Ireland Teachers' Pension Scheme Advisory Board constituted under Part 2 of these Regulations to report, within six months of the request—

- (a) whether there is agreement between the employer representatives and the member representatives on a recommended procedure for aligning the cost cap cost of the scheme with the employer cost cap; and
- (b) if there is such agreement, the procedure which the board is in agreement to recommend.

Action by the Department

5. On receipt of the Northern Ireland Teachers' Pension Scheme Advisory Board's report, the Department, in consultation with the scheme actuary and with such persons as the Department considers appropriate, must—

- (a) review any recommendations put forward in that report; and
- (b) either—
 - (i) if agreement has been reached, and the Department accepts the proposed procedure, implement the procedure agreed between the members of the Northern Ireland Teachers' Pension Scheme Advisory Board; or
 - (ii) if the Department does not agree with any agreement reached, or if agreement has not been reached, make such change to the standard accrual rate as in the opinion of the scheme actuary is necessary to bring the cost cap cost of the scheme into line with the employer cost cap.

Timescale for action

6. Any changes to the scheme made as a result of paragraph 5 are to take effect within four years of the effective date as at which the cost cap cost of the scheme was evaluated in the scheme actuary's valuation report.”.

Sealed with the Official Seal of the Department of Education on 6th March 2015



Fiona Hepper
A senior officer of the
Department of Education

The Department of Finance and Personnel consents to the foregoing Regulations.
Sealed with the Official Seal of the Department of Finance and Personnel on 6th March 2015



Emer Morelli
A senior officer of the
Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations, which come into operation on 1st April 2015, amend the Teachers' Superannuation Regulations (Northern Ireland) 1998 to—

1. remove Regulations G2, G3 and G4 of Part G (Finance) of the 1998 Regulations as they are superseded by the 2014 Regulations (regulation 4); and
2. provide for new employers' contribution rates (regulation 5);

The Regulations also amend the Teachers' Pension Scheme Regulations (Northern Ireland) 2014 to—

1. correct drafting errors (regulations 7 to 11, 14 to 16 and 23(a)(i));
2. provide for new employers' contributions (regulation 11);
3. amend Schedule 3 (transitional arrangements) to clarify the circumstances in which existing scheme retirement benefits are payable to transition members post-transition out of the existing scheme or the new scheme (*regulations 17 to 24*). They insert new paragraphs 33A and 33B which provide that any existing scheme ill-health retirement benefits to which transition members are entitled are paid by the new scheme before the member's existing scheme normal pension age. From normal pension age the existing scheme retirement pension is paid by the existing scheme; and
4. introduce a new Schedule 4 including provisions for scheme valuations and the employer cost cap, including the procedure to be followed in the event of a breach of the parameters for the cap cost of the scheme (regulation 14).

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

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