
STATUTORY INSTRUMENTS

1985 No. 1181

EDUCATION, ENGLAND AND WALES

The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1985

<i>Made - - - -</i>	<i>25th July 1985</i>
<i>Laid before Parliament</i>	<i>8th August 1985</i>
<i>Coming into Operation</i>	<i>31st August 1985</i>

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Citation and commencement
2. Interpretation
3. Definitions
4. Teachers to whom the Regulations apply

PART II

COMPENSATION IN CERTAIN CASES OF REDUNDANCY

5. Compensation for redundancy

PART III

COMPENSATION FOR PREMATURE RETIREMENT

6. Discretion to credit an additional period of service
7. Lump sum compensation and annual compensation
8. Allocation of part of annual compensation
9. Short-term compensation on death
10. Long-term compensation on death
11. Duration of compensation on death

PART IV

ADJUSTMENTS

12. Adjustments on account of redundancy payments
13. Adjustments on account of certain lump sum payments
14. Adjustments on account of certain periodic payments
15. Adjustments during new employment
16. Adjustments on cessation of new employment in reckonable service

PART V

MISCELLANEOUS AND SUPPLEMENTAL

17. Compensating authority
18. Notification of compensation
19. Supply of information
20. Payment of compensation

21. Compensation not assignable

SCHEDULE

Adjustments to take account of previous compensation

The Secretary of State for Education and Science, in exercise of the powers conferred on him by section 24 of the Superannuation Act 1972 (a), with the consent of the Treasury (b), hereby makes the following Regulations:—

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1985 and shall come into operation on 31st August 1985.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires, any reference to a Regulation or to a Part or to the Schedule is a reference to a Regulation or to a Part of, or to the Schedule to, these Regulations; any reference in a Regulation or the Schedule to a paragraph is a reference to a paragraph in that Regulation or the Schedule and any reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph of that paragraph.

(2) Any reference in these Regulations to the annual rate of compensation payable to a credited teacher immediately before the date of his death shall, if he died before he had been credited with an additional period of service under Regulation 6, be construed as a reference to the annual rate of compensation which would have been payable if he had been so credited before his death.

Definitions

3.—(1) In these Regulations, unless the context otherwise requires—

“the Act of 1978” means the Employment Protection (Consolidation) Act 1978 (c),

“annual compensation” means such compensation in accordance with the provisions of these Regulations;

“average salary” has the meaning assigned to it by Regulation 9 of the Superannuation Regulations (d);

“child” has the meaning assigned to it by paragraph (2) of this Regulation;

“compensating authority” has the meaning assigned thereto by Regulation 17;

“credited teacher” means an eligible teacher who has been credited (whether before or after his death) with an additional period of service in accordance with Regulation 6;

“disqualifying income” means remuneration payable to a person attending a course of full-time training which is payable at a rate not less than that at which an official pension (within the meaning of the Pensions (Increase) Act 1971 (e)) would be payable if the person concerned had been entitled

(a) 1972 c.11.

(b) See S.I. 1981/1670.

(c) 1978 c.44.

(d) Regulation 9 was amended by S.I. 1982/496.

(e) 1971 c.56.

to such a pension at the basic rate of £250 a year which began on 1st April 1972;

“eligible teacher” has the meaning assigned thereto by Regulation 4;

“employing authority”, in relation to an eligible teacher, means the local education authority, local authority, or governing body or other person by whom he is employed at the material date;

“employment” includes an office or the holding of an office, as the context may require;

“excepted payment” means any of the following payments, that is to say—

(a) a redundancy payment in respect of the cessation of the teacher’s former employment so, however, that where the amount thereof has been reduced in pursuance of the Redundancy Payments Pensions Regulations 1965 (a) it shall be deemed not to have been so reduced;

(b) any payment in lieu of notice of termination of the teacher’s former employment which does not exceed the remuneration he would have received in respect of the three months following the material date had that employment not been terminated; or, where the payment in lieu of notice of termination of that employment does exceed that remuneration, so much of that payment as is equal to that remuneration;

“former employment”, in relation to an eligible teacher or a credited teacher, means employment of the kind referred to in Regulation 4(1)(a) in relation to which the condition specified in Regulation 4(3)(a) is satisfied;

“further education” has the meaning assigned to it by section 41 of the Education Act 1944 (b);

“lump sum compensation” means such compensation in accordance with the provisions of these Regulations;

“maintained”, in relation to a school, has the meaning assigned to it by section 114(2) of the Education Act 1944;

“material date”, in relation to an eligible teacher or a credited teacher, means the date upon which he ceased to hold his former employment;

“new employment” has the meaning assigned thereto by Regulation 15(1);

“nominated beneficiary”, in relation to a deceased credited teacher, means a person who is such for the purposes of Section B of Part III of the Superannuation Regulations;

“occupational pension” means a pension by way of periodical payments which is an occupational pension within the meaning of section 66(1) of the Social Security Pensions Act 1975 (c) other than a pension payable under the Superannuation Regulations, but includes any pension payable in respect of service which was treated as reckonable service by virtue of Part VIII of the Teachers’ Superannuation Regulations 1967 (d);

“periodic payments” means any payments which are in respect of neither a lump sum nor a return of contributions;

“reckonable service” and “employment in reckonable service”, in relation to any teacher, have the same meaning as in the Superannuation Regulations;

“redundancy payment” means in relation to the former employment of a credited teacher, the aggregate of—

(a) the redundancy payment to which he is entitled under the Redundancy Payments Act 1965 (e) or under Part VI of the Act of 1978 (f) ,

(a) S.I. 1965/1932.

(b) 1944 c.31.

(c) 1975 c.60.

(d) S.I. 1967/489.

(e) 1965 c.62.

(f) Part VI has been amended by subsequent legislation; in particular section 81 was amended by paragraph 2(1) of Schedule 3 to the Employment Act 1982 (c.46).

- (b) any increase in such a payment paid by the employing authority before 11th August 1983 such that the payment, as so increased, corresponded to that which would have been payable had the Redundancy Payments (Local Government) (Modification) Order 1983 (a) been in operation on the material date, and
- (c) any compensation paid to him by the employing authority under Regulation 5, or of an amount corresponding to that which would have been payable under Regulation 5 had it been in operation on the material date,

in respect of the cessation of that employment;

“salary” has the meaning assigned to it by Regulation 3(7) of the Superannuation Regulations;

“the Superannuation Regulations” means the Teachers’ Superannuation Regulations 1976 (b) ;

“teacher” has the same meaning as in the Superannuation Regulations.

(2) In these Regulations, “child” in relation to a person means—

- (a) a child (including an illegitimate child or an adopted child) of that person, or
- (b) a child accepted by that person as a member of the family and wholly or mainly dependent on him,

who has not attained the age of 17 years or who, having attained the age of 17 years, is receiving full-time education or attending a course of not less than two years’ full-time training for a trade, profession or calling; and a person who has continued receiving full-time education after having attained the age of 17 shall be regarded as receiving such education up to (but not including) the first Monday in January, the first Monday after Easter Monday or the first Monday in September next following the end of the term in which in fact he last receives full-time education;

but does not include—

- (a) a child who is married; or
- (b) a child who is for the time being in receipt of disqualifying income; but a person who, being a child as so defined and in receipt of benefit under these Regulations, is incapacitated on the day on which, by virtue of this definition, he would otherwise cease to be a child, shall be regarded as continuing to be a child for the purpose of these Regulations for so long as that incapacity persists;

and “incapacitated”, in relation to a child, means incapacitated during any period in which he is, in the opinion of the compensating authority, incapable by reason of infirmity of the mind or body of earning his livelihood and he is not being maintained out of money provided by Parliament or raised by a rate.

Teachers to whom the Regulations apply

4.—(1) These Regulations (with the exception of Regulation 5) shall apply in the case of a teacher—

- (a) who, immediately before the material date, was in such employment in reckonable service as is mentioned in paragraph (2), and
- (b) in relation to whom each of the conditions specified in paragraph (3) is satisfied;

(a) S.I. 1983/1160.

(b) S.I. 1976/1987; relevant amendments are S.I. 1978/422, 1422, 1980/919 and 1982/496.

and any such teacher is referred to in these Regulations as an “eligible teacher”.

(2) The employment in reckonable service referred to in paragraph (1)(a) is such employment—

- (a) at a school maintained by a local education authority,
- (b) at an establishment of further education which is provided by a local education authority,
- (c) otherwise than at such a school or further education establishment but by a local authority (whether or not a local education authority),
- (d) at an establishment of further education other than one mentioned in paragraph (b) above which is for the time being wholly or mainly dependent for its maintenance on assistance from local education authorities, on grants under section 100(1)(b) of the Education Act 1944 or on such assistance and grants taken together, or
- (e) at a direct grant school which intended to become maintained (within the meaning of paragraph (4)).

(3) The conditions referred to in paragraph (1)(b) are that—

- (a) his employment has been terminated on or after 1st April 1976 and his employer has given written notice to the Secretary of State certifying that such termination was by reason of his redundancy or in the interests of the efficient discharge of the employer's functions;
- (b) on ceasing to hold that employment—
 - (i) he had attained the age of 50 years but had not attained the age of 65 years; and
 - (ii) he becomes entitled under the Superannuation Regulations to receive an annual allowance and an additional allowance otherwise than by virtue of Regulation 53(1)(a)(iii) or Regulation 53(1)(c) thereof (whether he has applied for such an allowance or not); and
- (c) he is not entitled to have his case considered or considered further for the payment of long-term or retirement compensation under the Colleges of Education (Compensation) Regulations 1975 (a) (whether or not by way of review under Regulation 32 of those Regulations) in respect of that termination of employment.

(4) The reference in paragraph (2)(e) to a direct grant school which intended to become maintained is a reference to a school the proprietors of which, before 1st January 1976, satisfied the Secretary of State as mentioned in Regulation 3(1) of the Direct Grant Grammar Schools (Cessation of Grant) Regulations 1975 (b) and in relation to which, at the beginning of the educational year (that is to say, that starting on the 1st August) in which the employment of the teacher concerned was terminated, either of the following conditions was satisfied, namely—

- (a) grant was payable under the Direct Grant Schools Regulations 1959 (c) in respect of pupils admitted in that year, or
- (b) grant was so payable in respect of pupils admitted in a previous educational year and the conditions set out in Regulation 5(3) of the said Regulations of 1975 (as in force on the date on which these Regulations come into operation) were satisfied.

(a) S.I. 1975/1092, amended by S.I. 1981/1088.

(b) S.I. 1975/1198; the relevant amending instruments are S.I. 1979/1552, 1981/1788.

(c) S.I. 1959/1832; the amending instruments are not relevant to the subject matter of these Regulations.

PART II

COMPENSATION IN CERTAIN CASES OF REDUNDANCY

Compensation for redundancy

5.—(1) This Regulation applies to a teacher who, on or after the date on which these Regulations come into operation, ceases to be employed in one of the capacities described in sub-paragraphs (a), (b), (c) and (d) of Regulation 4(2) (whether or not in reckonable service) and thereby becomes entitled to a redundancy payment under the Act of 1978.

(2) The employer by whom such a teacher has ceased to be employed may pay him compensation of an amount which does not exceed the difference between—

- (a) the redundancy payment to which he is entitled under Part VI of the Act of 1978, and
- (b) the redundancy payment to which he would have been so entitled if paragraph 8(1)(c) of Schedule 14 to that Act (which requires weekly pay in excess of a specified limit to be disregarded in calculating redundancy payments) had been repealed.

PART III

COMPENSATION FOR PREMATURE RETIREMENT

Discretion to credit an additional period of service

6.—(1) Subject to the provisions of paragraph (2), a compensating authority may, in their discretion, within 6 months after the date upon which these Regulations come into operation or the material date, whichever is the later, credit an eligible teacher with an additional period of service for the purposes of these Regulations not exceeding the shortest of the following periods—

- (a) the period by which his reckonable service falls short of 40 years, less, if the material date was before the date on which these Regulations came into operation and he is entitled to an occupational pension, the period of service or employment by reason of which that pension is paid;
- (b) the period beginning with the day following the material date and ending with the day on which he attains the age of 65 years, less, in the case of any teacher to whom the Schedule applies, any period required to be deducted therefrom by paragraph 2 of the Schedule;
- (c) his period of reckonable service;
- (d) ten years.

(2) Where the compensating authority are the governing body of an establishment of further education, an additional period of service shall only be credited by them under paragraph (1) if the period is agreed with, or determined in accordance with arrangements approved by—

- (a) the local education authorities concerned, where the establishment is wholly or mainly dependent for its maintenance on assistance from local education authorities;
- (b) the Secretary of State, where it is so dependent on grants under section 100(1)(b) of the Education Act 1944;

- (c) the local education authorities concerned and the Secretary of State, where it is so dependent on both such assistance and such grants, taken together.

Lump sum compensation and annual compensation

7.—(1) Subject as hereafter in these Regulations provided and in particular to Part IV, a credited teacher shall on ceasing to hold his former employment be entitled to receive—

- (a) lump sum compensation equal to the difference between the additional allowance he is entitled to receive under the Superannuation Regulations and that which he would be so entitled to receive on the hypothesis that his reckonable service after 30th September 1956 were increased by the period with which he is credited under Regulation 6, and
- (b) annual compensation at a rate equal to the difference between the rate of the annual allowance he is entitled to receive under the Superannuation Regulations and that of the annual allowance he would be so entitled to receive on the said hypothesis.

(2) Where—

- (a) a credited teacher whose material date falls on or after 31st August 1985 is being paid an occupational pension in respect of service performed before the material date (whether that pension began to be paid before, on or after the material date); and
- (b) the aggregate of his reckonable service, any period in respect of which he is entitled to the occupational pension and the additional period credited to him pursuant to Regulation 6 exceeds 40 years;

then, if the aggregate of—

- (i) the annual rate of compensation payable to him pursuant to paragraph (1), as increased by virtue of the Pensions (Increase) Act 1971 (a), and
- (ii) the annual rate of the occupational pension being paid to him, as increased, if it is an official pension, by virtue of the Pensions (Increase) Act 1971 or, if it is not such a pension, by virtue of any contract, scheme or other arrangement,

would exceed the relevant amount, the rate of annual compensation payable under paragraph (1) shall be reduced to the extent necessary to ensure that the relevant amount is not exceeded.

(3) The “relevant amount” for the purposes of paragraph (2) is an amount calculated in accordance with the formula—

$$\frac{A}{100} \times \left(50 - \frac{5B}{4} \right)$$

where A is the annual rate of the teacher’s average salary at the material date

and B is the teacher’s reckonable service (in years) at the material date, increased by a sum equivalent to the increase on that amount which would have been payable under the Pensions (Increase) Act 1971 on an official pension of that amount beginning on and payable from the day after the material date.

(a) 1971 c.56.

Allocation of part of annual compensation

8.—(1) This Regulation shall apply to a credited teacher who—

- (a) has, in accordance with Regulation 74 of the Superannuation Regulations, by declaration allocated the maximum part permitted by those Regulations of the annual allowance he is entitled to receive on ceasing to hold his former employment, and
- (b) within a month of being notified, under Regulation 18, of the amount of his annual compensation, has given notice to his compensating authority that he desires this Regulation to apply in his case.

(2) A credited teacher in whose case this Regulation applies may by declaration allocate such part of his annual compensation as, subject to paragraph (3), he may specify to the payment, as he may elect, of either—

- (a) such a pension, or
- (b) such an annuity and such a pension,

as are mentioned in paragraph (1)(a) or (b) of Regulation 74 of the Superannuation Regulations (read with paragraph (2) thereof); and, for the purposes hereof, the provisions of paragraphs (3) to (7) of the said Regulation 74 and of Schedule 6 to those Regulations (a) (as they apply in the case of a teacher to whom Regulation 53A thereof (b) applies) shall have effect as if they were set out herein with any necessary modifications, and in particular as if any reference therein to an annual allowance were a reference to annual compensation and any reference to the Secretary of State were a reference to the compensating authority.

(3) The proportion which the part of the teacher's annual compensation which he allocates bears to that compensation (disregarding any reduction thereof in pursuance of Part IV) shall not exceed the proportion which the part of his annual allowance which he has allocated as mentioned in paragraph (1)(a) bears to that allowance.

Short-term compensation on death

9.—(1) This Regulation shall apply if, on the death of a credited teacher, a short-term pension is payable under Regulation 63 of the Superannuation Regulations (c) —

- (a) to the teacher's widow or, as a nominated beneficiary, the teacher's widower,
- (b) to or for the benefit of a child or children left by the teacher, or
- (c) to an adult nominated beneficiary other than the teacher's widower,

or if such a pension would have been so payable had not a transfer value been paid under Regulation 81 of those Regulations (d) after the cessation of the teacher's former employment; and any person to or for whose benefit such a pension is, or would have been, so payable is in this Regulation referred to as a "relevant beneficiary".

(2) Subject to Regulation 11 (Duration of compensation on death), where this Regulation applies short-term compensation shall be paid to the relevant beneficiary or, where a child or children are the relevant beneficiaries, to them or for their benefit (jointly if more than one).

(a) Regulation 74 and Schedule 6 were amended by S.I. 1978/422 and 1980/919.

(b) Regulation 53A was added by S.I. 1978/422 and amended by S.I. 1978/1422.

(c) Regulation 63 was amended by S.I. 1980/919.

(d) Regulation 81 was amended by S.I. 1978/1422.

(3) Subject to Regulation 14 (Adjustments on account of certain periodic payments), short-term compensation shall be payable at the rate at which annual compensation would have been payable to the credited teacher immediately before his death if any reduction pursuant to Regulation 13, 15 or 16(4) had been left out of account.

Long-term compensation on death

10.—(1) This Regulation shall apply if, on the death of a credited teacher, a long-term pension is payable under Regulation 64 of the Superannuation Regulations (a) —

- (a) to the teacher's widow or, as a nominated beneficiary, the teacher's widower,
- (b) to or for the benefit of a child or children left by the teacher, or
- (c) to an adult beneficiary other than the teacher's widower,

or if such a pension would have been so payable had not a transfer value been paid under Regulation 81 of those Regulations (b) after the cessation of the teacher's former employment; and any person to or for whose benefit such a pension is, or would have been, so payable is in this Regulation referred to as a "relevant beneficiary".

(2) Subject to Regulation 11 (Duration of compensation on death), where this Regulation applies long-term compensation shall be paid to each relevant beneficiary or, where a child or children are relevant beneficiaries, to them or for their benefit (jointly if more than one).

(3) In the case of a relevant beneficiary other than a child, subject to Regulation 14, long-term compensation shall be payable at one half of the rate of the credited teacher's annual compensation.

(4) In the case of a child who is a relevant beneficiary or of children who are jointly such beneficiaries, subject to Regulation 14, long-term compensation shall be payable—

- (a) if the teacher is survived by a widow or an adult nominated beneficiary (within the meaning of the Superannuation Regulations) and the person in question has not died—
 - (i) for so long as there are two or more children, at one half of the rate of the credited teacher's annual compensation;
 - (ii) for so long as there is not more than one child, at one quarter of that rate; or
- (b) if the teacher is not so survived or was so survived but the person in question has died and, if the teacher was a woman, she was unmarried at the time of her death—
 - (i) for so long as there are two or more children, at two-thirds of the rate of the credited teacher's annual compensation;
 - (ii) for so long as there is not more than one child, at one third of that rate.

(5) For the purposes of paragraphs (3) and (4), "the rate of the credited teacher's annual compensation" means the rate of annual compensation which would have been payable to the credited teacher immediately before his death if any reduction pursuant to Regulations 8, 12(4), 13, 15 or 16(4) had been left out of account; or if the teacher died while in new employment which constituted reckonable service, the rate which would have been so payable if—

(a) Regulation 64 was amended by S.I. 1978/1422 and 1980/919.

(b) Regulation 81 was amended by S.I. 1978/1422.

- (a) he had ceased to be in the new employment immediately before his death, and
- (b) if he had not then attained the age of 60 years, any reduction which fell to be made in his annual compensation in pursuance of Regulation 16(3) were calculated as though the period of reckonable service he was entitled to count by virtue of his period of new employment (relevant to the factor P in the formula in Regulation 16(3)) were increased by the number of years mentioned in Regulation 66(3)(f) of the Superannuation Regulations in its application to his case, and
- (c) any further reduction which fell to be made in pursuance of Regulations 8, 12(4), 13, 15 or 16(4) were disregarded.

Duration of compensation on death

11.—(1) Short-term compensation shall begin to accrue on the day after the death of the teacher and, subject to paragraph (4), shall be payable—

- (a) for three months, unless payable to or for the benefit of a child or children;
- (b) if so payable—
 - (i) for two months if the teacher left only one child, or
 - (ii) for four months if the teacher left more than one child.

(2) Long-term compensation payable to or for the benefit of any person shall begin to accrue on the termination of any short-term compensation payable to or for his benefit or, if no short-term compensation is payable or the amount thereof has been extinguished, on the day after the death of the teacher:

Provided that if the rate of the long-term compensation exceeds that of the short-term compensation it shall be paid in substitution for the short-term compensation.

(3) Long-term compensation payable otherwise than to or for the benefit of a child or children shall cease to be payable, unless the compensating authority otherwise direct, on the recipient's marrying or commencing to live as husband and wife with a person to whom he or she is not married but such compensation shall, if the compensating authority so direct, again become payable upon the recipient's marriage terminating (by death or divorce) or, as the case may be, upon the recipient's ceasing to live as husband and wife with a person to whom he or she is not married.

(4) Short-term or long-term compensation payable to or for the benefit of a child shall cease to be payable when he ceases to be a child.

(5) Subject to paragraphs (1), (3) and (4), short-term or long-term compensation shall be paid until the death of the person to or for whose benefit it is payable.

PART IV

ADJUSTMENTS

Adjustments on account of redundancy payments

12.—(1) Where—

- (a) a credited teacher is credited under Regulation 6 with an additional period of service in excess of 6 $\frac{2}{3}$ years; and

(b) he has received, or is entitled to receive, a redundancy payment in respect of the cessation of his former employment,
his compensation under these Regulations shall be abated in accordance with this Regulation.

(2) The compensation of such a credited teacher shall be abated as follows—

(a) where his lump sum compensation—

(i) exceeds the amount ascertained under paragraph (3), it shall be reduced by that amount;

(ii) is equal to the amount ascertained under that paragraph, it shall not be payable;

(iii) is exceeded by the amount ascertained under that paragraph, it shall not be payable, and his annual compensation shall be reduced in accordance with sub-paragraph (b); and

(b) his annual compensation shall be reduced by an amount the capital value whereof is equal to the outstanding balance (if any), such reduction to be calculated in accordance with paragraph (4).

(3) The amount ascertained under this paragraph is equal to—

$$\left(\frac{3R}{10} \times E \right) - Y$$

where—

R is the amount of the redundancy payment referred to in paragraph (1);

E is the period of the credited teacher's additional service, expressed in years and fractions of a year, which is in excess of 6 $\frac{2}{3}$ years; and

Y is any amount by which that payment is reduced in accordance with the Redundancy Payments Pensions Regulations 1965 (a)

(4) The amount by which the annual compensation payable to a credited teacher is to be reduced in the circumstances described in paragraph (2)(b) shall be calculated in accordance with the following table—

Age last birthday	Reduction of annual compensation per £100 of the outstanding balance.	
	Male	Female
	£	£
50	6.26	5.43
51	6.36	5.48
52	6.47	5.55
53	6.61	5.64
54	6.77	5.75
55	6.96	5.87
56	7.17	6.01
57	7.40	6.16
58	7.64	6.32
59	7.89	6.49
60	8.15	6.67
61	8.43	6.87
62	8.73	7.08
63	9.05	7.32
64	9.39	7.58

(a) S.I. 1965/1932.

- (5) In this Regulation—
 “annual compensation” means the compensation payable to a credited teacher under Regulation 7(1)(b);
 “lump sum compensation” means the compensation payable to him under Regulation 7(1)(a); and
 “outstanding balance” means the amount of the excess described in paragraph (2)(a)(iii) of this Regulation.

Adjustments on account of certain lump sum payments

13.—(1) Paragraphs (3) to (7) apply to the lump sum compensation payable to a credited teacher whose material date falls on or after the coming into operation of these Regulations.

(2) Paragraphs (3), (4), (5) (excluding sub-paragraph (b) of paragraph (5)) and (6) apply to the lump sum compensation payable to a credited teacher whose material date falls after 17th December 1980 and before the coming into operation of these Regulations if, and only if, his employing authority has, before the coming into operation of these Regulations, determined that any lump sum compensation which might become payable to him under these Regulations should be reduced—

- (a) by an amount greater than the reduction which would have been required by those paragraphs if they had been in operation, as they apply to the compensation payable to a credited teacher whose material date falls on or after the coming into operation of these Regulations; or
 (b) by any other amount, as if any reference in those paragraphs to a reduction in compensation were a reference to such reduction therein as his employing authority determined to make.

(3) The amount of the lump sum compensation payable to a credited teacher who receives one or more lump sum payments constituting a termination payment (as defined in paragraph (7)) shall be reduced by the amount of the termination payment paid to him and shall be extinguished if it is not the greater of the two amounts.

(4) Where the lump sum compensation payable to a teacher is extinguished under paragraph (3), the amount of his annual compensation shall be reduced by the sum by which the amount of the termination payment exceeds the amount of the lump sum compensation which would be payable but for paragraph (3).

(5) Where a termination payment is payable to a teacher to whom this Regulation applies but no reduction of his lump sum compensation is made under paragraph (3) by reason that either—

- (a) the lump sum compensation payable to the teacher is extinguished under Regulation 12(2), or
 (b) the termination payment became payable after the lump sum compensation was paid,

the amount of his annual compensation shall be reduced by that of the termination payment.

(6) Any reduction in annual compensation under paragraph (4) or (5) shall be made from the instalments thereof as they accrue so that no instalment (or further instalment) is paid until the full reduction has been made.

(7) In this Regulation, “termination payment” means the aggregate of any lump sum payments made to the teacher by his employing authority in pursuance of any contract or arrangement or any provision contained in, or made under, any enactment, whenever made or enacted—

- (a) in consequence of, or by way of compensation for, the loss of his former employment, but
- (b) otherwise than by way of compensation under Regulation 7(1)(a) or by way of an excepted payment.

Adjustments on account of certain periodic payments

14.—(1) This Regulation applies to, and in the case of, a credited teacher where—

- (a) his material date falls on or after the date on which these Regulations come into force, and
- (b) such periodic payments as are mentioned in paragraph (4) (“relevant periodic payments”) are payable to him or to a person to whom short-term or long-term compensation is payable on his death.

(2) Where, in respect of any period, any relevant periodic payments are made to a teacher to whom this Regulation applies the amount of his annual compensation in respect of that period shall be reduced by the amount thereof and shall be extinguished where it is not the greater of the two amounts.

(3) Where, in respect of any period, any relevant periodic payments are made, in a case to which this Regulation applies, to a person to whom short-term or long-term compensation is payable, the amount of that compensation in respect of that period shall be reduced by the amount thereof and shall be extinguished where it is not the greater of the two amounts.

(4) The relevant periodic payments referred to in paragraph (1) are periodic payments made—

- (a) by the teacher’s employing authority;
- (b) in consequence of, or by way of compensation for, the loss by the teacher of his former employment, and
- (c) in pursuance of any contract or arrangement or of any instrument or enactment, whenever made or enacted, but
- (d) otherwise than by way of compensation under Regulation 7(1)(b) or by way of excepted payments.

(5) In this Regulation any reference to payments or compensation being made or payable to a person includes a reference to those payments or that compensation being made or payable for his benefit.

Adjustments during new employment

15.—(1) This Regulation shall apply to a credited teacher who is in such employment as is mentioned in Regulation 75(1) of the Superannuation Regulations (hereinafter referred to as “new employment”) for so long as he remains in that employment.

(2) Where the new employment is employment in reckonable service or comparable British service (that is to say, service which is pensionable under a superannuation scheme for teachers in public employment in any part of the British Islands outside England and Wales)—

- (a) the teacher's annual compensation shall be suspended for any period for which his annual allowance is either suspended or reduced under Regulation 75(3) of the Superannuation Regulations, and
- (b) it shall be reduced for any other period for which the aggregate of—
- (i) his annual compensation,
 - (ii) his annual allowance, and
 - (iii) his salary at the re-employment rate,

would exceed his salary at the previous rate, and the amount of the reduction shall equal that excess.

(3) Where the new employment is not such as is mentioned in paragraph (2)—

- (a) the teacher's annual compensation shall be suspended for any pension quarter for which his annual allowance is either suspended or reduced under Regulation 75(4) of the Superannuation Regulations, and
- (b) it shall be reduced for any other pension quarter for which the aggregate of—
- (i) his annual compensation,
 - (ii) his annual allowance, and
 - (iii) his remuneration in his new employment,

would exceed his salary at the previous rate, and the amount of the reduction shall equal that excess so, however, that for the purposes hereof the increase in his annual compensation or allowance, or the notional increase in his salary at the previous rate, applicable under the Pensions (Increase) Act 1971(a) over the whole of the pension quarter shall be taken to be that calculated at the rate so applicable on the first day of that quarter.

(4) Where a teacher's new employment comprises separate employments at least one of which is such as is mentioned in paragraph (2), any of those employments which are not such as are so mentioned shall be disregarded for the purposes of this Regulation.

(5) Where a teacher has two or more entitlements to annual compensation—

- (a) the reference in paragraph (2)(b) or (3)(b) to his annual compensation shall be taken as a reference to his total annual compensation, but
- (b) each separate amount of compensation shall be reduced by only that proportion of the amount determined in accordance with the paragraph in question which that separate amount bears to the teacher's total annual compensation.

(6) In this Regulation—

“annual allowance” means such an allowance under the Superannuation Regulations as increased under the Pensions (Increase) Act 1971;

“annual compensation” means such compensation, as increased under the said Act of 1971 and (except where the context otherwise requires) disregarding any reduction therein otherwise than in pursuance of Regulation 16;

“pension quarter” has the meaning assigned thereto by Regulation 75(5) of the Superannuation Regulations;

“previous rate” means the salary rate mentioned in the definition of “previous salary” in the said Regulation 75(5) adjusted as therein provided, in particular, by reference to the said Act of 1971;

(a) 1971 c.56.

“re-employment rate” means the salary rate mentioned in the definition of “re-employment salary” in the said Regulation 75(5).

Adjustments on cessation of new employment in reckonable service

16.—(1) This Regulation applies to a credited teacher who has been, but has ceased to be, in new employment which was employment in reckonable service.

(2) The annual compensation of a credited teacher to whom this Regulation applies shall be reduced in the manner described in paragraph (3) if, on cessation of any such period of new employment, the aggregate of—

- (a) his total reckonable service up to that date (or up to the date on which he attained 65 years of age if that is earlier), and
- (b) any additional period of service with which he is credited under Regulation 6 (reduced, where he has had a previous period of new employment in reckonable service and his annual compensation has, pursuant to this Regulation, been reduced in consequence thereof, by the period “P” by reference to which, pursuant to paragraphs (3), (4) and (5), that reduction was then calculated), and
- (c) any additional period of service, or period of increased service, credited to him for a purpose specified in paragraph 1 of the Schedule and not already taken into account under sub-paragraph (b) above, reduced to the extent provided for in paragraph 2 of the Schedule, exceeds the total period of reckonable service which he would have been entitled to count for the purpose of calculating any annual allowance payable to him under the Superannuation Regulations if he had continued to hold his former employment until he had attained the age of 65 years.

(3) The annual compensation of a credited teacher to whom this Regulation applies shall be reduced by an amount calculated at the annual rate which is $\frac{1}{60} \times P \times S$ where P and S have the meanings assigned to them by paragraph (5).

(4) The annual compensation of a credited teacher to whom this Regulation applies shall be further reduced by a deduction therefrom which is three times the amount of the annual rate of the reduction pursuant to the previous paragraph; and the said deduction shall be made from the instalments of that compensation as they accrue so that no instalment shall be paid until the total deduction pursuant to this paragraph has been made.

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

“P” is the shortest of the following three periods (expressed in years and a fraction of a year), namely—

- (a) the additional period of service with which the teacher is credited under Regulation 6, (reduced, where he has had a previous period of new employment in reckonable service, to the extent required by paragraph (2)(b));
- (b) the period of reckonable service he is entitled to count by virtue of his period of new employment (excluding any part of that period which falls after he has attained the age of 65); and
- (c) the excess of the aggregate period first mentioned in paragraph (2) over the period last so mentioned; and

“S” is whichever is the smaller of—

(a) the teacher’s average salary at the material date, and

(b) the amount determined by the formula $X - \frac{(X \times Y)}{Y + £100}$

where—

“X” is the teacher’s average salary on cessation of his period of new employment; and

“Y” is the aggregate amount of the increases payable under the Pensions (Increase) Act 1971 (a) in respect of an official pension of £100 a year which began on the day following the material date during the period between that date and the day following the cessation of the period of new employment (“official pension” and “began” being construed in accordance with the said Act of 1971).

(6) In this Regulation “annual compensation” means annual compensation at the rate payable by virtue of these Regulations on the day after cessation of new employment in reckonable service, but disregarding any temporary reduction in that rate required by Regulation 13(4) or (5), by Regulation 14(2), or by any previous application of paragraph (4) of this Regulation.

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Compensating authority

17.—(1) Compensation payable under these Regulations shall be paid by the compensating authority who shall, except as provided in paragraphs (2) to (4) below, be—

- (a) in relation to a teacher whose former employment was such as is mentioned in Regulation 4(2)(a) or (b), the local authority by which the school or establishment in question is maintained or provided;
- (b) in relation to a teacher whose former employment was such as is mentioned in Regulation 4(2)(c), the employing authority;
- (c) in relation to a teacher whose former employment was such as is mentioned in Regulation 4(2)(d), the governing body of the establishment in question, and
- (d) in relation to a teacher whose former employment was such as is mentioned in Regulation 4(2)(e), the Secretary of State.

(2) In relation to a teacher described in paragraph (1)(c), if the establishment there mentioned is closed then, with effect from the date of closure, the compensating authority shall be—

- (a) where the establishment was, immediately before its closure, wholly or mainly dependent for its maintenance on assistance from one or more local education authorities, that authority or those authorities acting jointly;
- (b) where the establishment was so dependent on grants under section 100(1)(b) of the Education Act 1944, the Secretary of State; or
- (c) where the establishment was so dependent upon such assistance and grants as aforesaid, taken together, the local education authority or authorities concerned and the Secretary of State acting jointly;

and where, in pursuance of sub-paragraph (a) or (c), there are compensating authorities acting jointly, each such authority shall be liable for that proportion of the teacher’s compensation as may be agreed between them or, in default of agreement, for the proportion thereof which the aggregate assistance or grants provided by the compensating authority during the three years preceding the closure bore to the aggregate assistance or grants so provided by all those authorities.

(a) 1971 c.56.

(3) A compensating authority may arrange for any compensation payable by them under these Regulations to be paid on their behalf by the teacher's employer or by another compensating authority and to make re-imbusement for such payment immediately or at such intervals as may be agreed.

(4) Without prejudice to paragraph (3), where, in pursuance of paragraph (2)(a) or (c), there are compensating authorities acting jointly, then, in so far as they so agree, anything which falls to be done by or to a compensating authority under these Regulations may be done by or to any one of them.

Notification of compensation

18. A compensating authority, after—

- (a) crediting a credited teacher with an additional period of service under Regulation 6(2),
- (b) the death of a credited teacher, or
- (c) making any adjustment under Part IV,

shall as soon as reasonably practicable give the teacher, or such other person or persons to whom compensation is payable in accordance with these Regulations, written notification of the compensation payable or of the adjustment, and in each case, of the calculation thereof.

Supply of information

19.—(1) A credited teacher shall, not later than one month after his entering or ceasing to hold a new employment, give his compensating authority written notification of that fact.

(2) A person to whom compensation is payable in accordance with these Regulations shall furnish all such information as his compensating authority may at any time reasonably require for the purpose of its functions under these Regulations and shall verify that information in such manner, by the production of documents in his possession or control or otherwise, as may be reasonably so required.

Payment of compensation

20.—(1) Compensation (other than lump sum compensation) shall be payable in arrears at intervals of one month or such other intervals (not being less than a month) as may be agreed between the recipient thereof and the compensating authority.

(2) Where payment of any such sum is due in respect of a period which is less than the interval at which it is payable—

- (a) the amount payable in respect of each complete month of the period shall be one-twelfth of the sum payable in respect of a year; and
- (b) the amount payable in respect of a period of less than one complete month shall bear the same proportion to one-twelfth of the sum payable in respect of a year as the number of days in respect of which it is payable bears to the total number of days in the month in which those days fall.

(3) If a person to whom compensation is payable is a minor, or is in the opinion of the compensating authority incapable by reason of infirmity of mind or body of managing his affairs, the compensating authority may—

- (a) pay the compensation to any person having the care of that person to apply it for his benefit, or

- (b) otherwise pay or apply the compensation for his benefit or, where he is not a minor, for the benefit of his dependants.
- (4) Without prejudice to any other right of recovery, any compensation paid in error may be recovered by a deduction from any compensation subsequently payable under these Regulations.

Compensation not assignable

21.—(1) Every assignment of, or charge on, and every agreement to assign or charge, any compensation payable under these Regulations shall be void.

(2) On the bankruptcy of a person entitled to any such compensation, no part thereof shall pass to any trustee or other person acting on behalf of the creditors; but nothing in this Regulation shall affect the powers of the court under section 51(2) of the Bankruptcy Act 1914 (a) (power to order the payment of the whole or part of certain sums to the trustee in bankruptcy).

SCHEDULE

Regulation 6(1)(b)

ADJUSTMENTS TO TAKE ACCOUNT OF PREVIOUS COMPENSATION

1.—(1) This Schedule applies to a teacher who, prior to ceasing to hold his former employment or, as the case may be, his new employment, has been credited with a period of additional service, or has had his period of service increased, for the purpose of calculating—

- (a) retirement compensation under regulations made under section 259 of the Local Government Act 1972 (b) (Compensation for loss of office) or a similar instrument, on account of loss of employment;
- (b) benefit under regulations made under section 260 of the Local Government Act 1972 (provision for early retirement in lieu of compensation for loss of office) or a similar instrument;
- (c) compensation under any scheme made under section 1 of the Superannuation Act 1972 (c) (superannuation schemes as respects civil servants etc.) or a similar instrument, on account of his retirement in the public interest or for loss of office;
- (d) compensation under these Regulations or any other regulations made under section 24 of the Superannuation Act 1972 (compensation for loss of office, etc.) or any similar instrument, on account of the termination of his employment by reason of redundancy or in the interests of the efficient discharge of his employer's functions;
- (e) compensation under any contract or arrangement made before 31st August 1985 in the expectation that regulations providing for compensation for termination of employment by reason of redundancy or in the interests of the efficient discharge of the employer's functions would be made under the said section 24.

(2) In this paragraph, "similar instrument" means any instrument made under any provision to the like effect in any other enactment (whenever enacted).

(a) 1914 c.59.
(c) 1972 c.11.

(b) 1972 c.70.

2. The period first mentioned in Regulation 6(1)(b) shall, in the case of a teacher to whom this Schedule applies, be reduced by the period A — B, where—

“A” is the period with which the teacher concerned has been credited, or by which his service has been increased, for any of the purposes specified in paragraph 1 (or, if the period so mentioned has been reduced in consequence of the cessation of subsequent employment, that period as so reduced), and

“B” is the aggregate of any periods falling between the cessation of previous employment which gave rise to that credit or increase and the material date during which he was not employed in reckonable service, any excess of B over A being disregarded.

Keith Joseph,
Secretary of State for
Education and Science.

17th July 1985.

We consent,

Donald Thompson,
T. Garel-Jones,
Two of the Lords Commissioners
of Her Majesty's Treasury.

25th July 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations provide for payments to teachers who are made redundant, and for the payment of compensation to teachers aged 50 and over who are prematurely retired on redundancy or in the interests of the efficient discharge of their employer's functions.

Part I of the Regulations contains definitions, and specifies the circumstances in which certain teachers may receive compensation in respect of premature retirement (*Regulation 4*).

Part II (*Regulation 5*) authorises additional compensation payments to redundant teachers employed by local authorities, or in maintained or assisted further education establishments, who become entitled to redundancy payments under the Employment Protection (Consolidation) Act 1978. The payments are at the discretion of the employer, but may not exceed the difference between the amount payable under the 1978 Act and the amount which would have been payable if no earnings limit had been specified under the Act for the purpose of calculating a redundancy payment.

Part III authorises the compensating authority to credit an additional period of service to teachers who are prematurely retired and satisfy the conditions set out in Regulation 4 (*Regulation 6 and the Schedule*), and prescribes how compensation in respect of that additional period of service shall be calculated (*Regulation 7*). It also makes provision for the allocation of compensation (*Regulation 8*), and for the payment of compensation, on the death of a teacher who has been credited with additional service, to his widow or nominated beneficiary and his children (*Regulations 9 to 11*).

Part IV provides for adjustments to the level of compensation to take account of redundancy payments, and other payments by way of compensation for the loss of employment (*Regulations 12 to 14*), income received during periods of further service after premature retirement (*Regulation 15*), and superannuation benefits arising from further service (*Regulation 16*).

Part V defines the compensating authority for different classes of teachers (*Regulation 17*), and includes miscellaneous administrative provisions (*Regulations 18 to 21*).

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