

1989 No. 298

EDUCATION, ENGLAND AND WALES

**The Teachers (Compensation for Redundancy and
Premature Retirement) Regulations 1989**

<i>Made - - - -</i>	<i>1st March 1989</i>
<i>Laid before Parliament</i>	<i>9th March 1989</i>
<i>Coming into force</i>	<i>1st April 1989</i>

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SCHEDULE

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The Secretary of State, in exercise of the powers conferred by section 24 of the Superannuation Act 1972(a), with the consent of the Treasury, hereby makes the following Regulations:-

PART I

PRELIMINARY

Title and commencement

1. These Regulations may be cited as the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1989 and shall come into force on 1st April 1989.

Interpretation

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

- (a) any reference to a numbered regulation or Part or to the Schedule is to be construed as a reference to the regulation or Part which bears that number in, or as the case may be to the Schedule to, these Regulations, and any reference to a numbered paragraph in a regulation of or the Schedule to these Regulations is to be construed as a reference to the paragraph bearing that number in that regulation or, as the case may be, in the Schedule,
- (b) any reference to, or to things done or falling to be done under or for the purposes of, any provision of these Regulations is, if and so far as the nature of the reference permits, to be construed as including, in relation to circumstances or purposes in relation to which the corresponding provision in the 1985 Regulations has or had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision, and

(a) 1972 c.11.

(c) subject to paragraph (2), any expression for which there is an entry in the first column of Schedule 1 to the Superannuation Regulations has the meaning given against it in the second column or is to be construed in accordance with directions given against it in that column.

(2) In these Regulations, unless the context otherwise requires—

“the 1971 Act” means the Pensions (Increase) Act 1971(a);

“the 1978 Act” means the Employment Protection (Consolidation) Act 1978(b);

“the 1988 Act” means the Education Reform Act 1988(c);

“the 1985 Regulations” means the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1985(d);

“the Superannuation Regulations” means the Teachers’ Superannuation (Consolidation) Regulations 1988(e);

“annual compensation” means annual compensation payable under regulation 7;

“assumed retirement pension” is to be construed in accordance with regulation 7(5);

“compensating authority” is to be construed in accordance with regulation 17;

“compensation” means compensation payable under these Regulations;

“credited teacher” means an eligible teacher who has been credited with a period of service under regulation 6, and “credited period” means the period with which he has been credited;

“effective service” is to be construed in accordance with regulation 6(2);

“eligible teacher” is to be construed in accordance with regulation 4(3);

“former employment”, in relation to an eligible teacher or a credited teacher, means relevant employment in relation to which the conditions in regulation 4(4) are satisfied, and “former employer” means the person who employed him in that employment;

“lump sum compensation” means lump sum compensation payable under regulation 7;

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

“new employment” has the meaning given in regulation 15(2);

“redundancy payment”, in relation to a person’s former employment, means the aggregate of the amounts paid in respect of its cessation by way of—

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

(b) any increase paid by the former employer before 11th August 1983 so that the payment, as increased, corresponded to that which would have been payable had the Redundancy Payments (Local Government) (Modification) Order 1983(h) been in force on the material date, and

(c) any compensation which was paid by the former employer under regulation 5 or was of an amount corresponding to that which would have been payable under that regulation if it had been in force on the material date; and

“relevant employment” is to be construed in accordance with regulation 3.

(3) Where these Regulations require anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

Relevant employment

3.—(1) Where the material date is a date earlier than 6th April 1988, relevant employment is employment that fell within regulation 4(2) of the 1985 Regulations.

(2) Where the material date is a date later than 5th April 1988 but earlier than 1st November 1988, relevant employment is employment that fell within regulation 4(2) of

(a) 1971 c.56.

(b) 1978 c.44.

(c) 1988 c.40.

(d) S.I. 1985/1181.

(e) S.I. 1988/1652.

(f) 1965 c.62.

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

(h) S.I. 1983/1160.

the 1985 Regulations or would have done so but for an election under regulation 10 (voluntary membership) of the Teachers' Superannuation (Miscellaneous Provisions) (No. 2) Regulations 1988(a).

(3) In any other case, subject to paragraphs (4) to (6) relevant employment is employment falling within paragraph 1, 3, 5 or 25 of Schedule 2 to the Superannuation Regulations.

(4) An employment falling within paragraph 3 of that Schedule is relevant employment only if it is at a school maintained under Chapter IV of Part I of the 1988 Act (grant-maintained schools).

(5) An employment falling within paragraph 5 of that Schedule is relevant employment only if it is at an institution which falls within section 218(10) or (11) of the 1988 Act.

(6) An employment falling within paragraph 25 of that Schedule is relevant employment only if it has at some time been pensionable employment.

(7) For the purposes of these Regulations—

- (a) employment category A comprises relevant employment at a single school or institution maintained by a local education authority which for the time being had a delegated budget within the meaning of Chapter III of Part I or Chapter III of Part II of the 1988 Act,
- (b) category B comprises relevant employment at a school or institution maintained by a local education authority which did not have a delegated budget, relevant employment by a local education authority otherwise than at a school or institution, and relevant employment at a maintained school or institution with a delegated budget which was concurrent with employment of either of those kinds or with relevant employment at another such school or institution,
- (c) category C comprises relevant employment at a school maintained under Chapter IV of Part I of the 1988 Act (grant-maintained schools),
- (d) category D comprises relevant employment at an institution not maintained by a local education authority which for the time being had a delegated budget within the meaning of Chapter III of Part II of the 1988 Act,
- (e) category E comprises relevant employment at an institution falling within section 218(10) of the 1988 Act which was designated as an institution substantially dependent for its maintenance on assistance from local education authorities and which did not have a delegated budget,
- (f) category F comprises relevant employment at an institution falling within section 218(10) of the 1988 Act which was designated as an institution substantially dependent for its maintenance on grants under section 100(1)(b) of the Education Act 1944(b), and
- (g) category G comprises relevant employment at an institution falling within section 218(11) of the 1988 Act and relevant employment at a university.

Persons to whom the Regulations apply

4.—(1) Part II applies to any person who has become entitled to a redundancy payment under the 1978 Act in consequence of his having—

- (a) ceased after 31st August 1985 and before 1st April 1989 to be employed in a capacity which was referred to in regulation 5(1) of the 1985 Regulations, or
- (b) ceased after 31st March 1989 to be employed in relevant employment.

(2) Parts III to V apply to eligible teachers.

(3) An eligible teacher is a person—

- (a) who immediately before the material date was employed in relevant employment, and
- (b) in relation to whom the conditions in paragraph (4) are satisfied.

(4) The conditions are that—

- (a) when his employment was terminated he had attained the age of 50 but had not attained the age of 65,

(a) S.I. 1988/816.

(b) 1944 c.31.

- (b) he then had, or but for an election under regulation B6 of the Superannuation Regulations would have, completed a qualifying period (within the meaning of regulation E3 of those Regulations) of at least 5 years,
- (c) he did not become entitled to payment of retirement benefits under regulation E4(6) of those Regulations (incapacity),
- (d) 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, and
- (e) the former employer has notified the Secretary of State in writing that the employment was terminated by reason of his redundancy or in the interests of the efficient discharge of the employer's functions.

(5) Where—

- (a) the former employment fell within category A, and
 - (b) the former employer is the local education authority, and
 - (c) the governing body of the school or institution requests the authority to do so,
- the authority must notify the Secretary of State as mentioned in paragraph (4)(e).

PART II

REDUNDANCY

Compensation for redundancy

5.—(1) Subject always to sections 46(2) to (4) and 149(1) to (3) of the 1988 Act (determinations by governing bodies as to making by local education authorities of certain payments in respect of dismissal, etc.), where a person to whom this Part applies has ceased to be employed the appropriate person may pay him compensation which does not exceed the difference between—

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

(2) Where the employment was at an aided school within the meaning of section 15 of the Education Act 1944(b), the appropriate person is the local education authority.

(3) In any other case, the appropriate person is the person by whom he was employed.

PART III

COMPENSATION FOR PREMATURE RETIREMENT

Additional service credit

6.—(1) Subject to paragraph (3), the deciding authority, ascertained from the first and second columns of the table in Part I of the Schedule, may, within 6 months after the material date, credit an eligible teacher with a period of service not exceeding the shortest of—

- (a) the period by which his effective service falls short of 40 years,

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

(b) 1944 c.31.

- (b) the period beginning on the day following the material date and ending with his 65th birthday, less, where paragraph 1 of Part II of the Schedule applies, any period required by paragraph 2 to be deducted,
 - (c) the length of his effective service, and
 - (d) 10 years.
- (2) An eligible teacher's effective service comprises—
- (a) any period which he is entitled to count as reckonable service, and
 - (b) if his former employment was not pensionable employment, any period which he would have been entitled so to count if it had been.
- (3) If his former employment fell within category E or F, an eligible teacher may not be credited with a period of service without the consent—
- (a) where the employment fell within category E, of every local education authority providing the institution with assistance, and
 - (b) where it fell within category F, of the Secretary of State.

Compensation payable to credited teacher

7.—(1) A credited teacher is entitled to lump sum compensation and to annual compensation.

(2) Subject to regulations 12 and 13, the amount of the lump sum compensation is $A - B$, where—

A is the retirement lump sum to which he would be entitled on the hypothesis specified in paragraph (4), and

B is the assumed retirement lump sum.

(3) Subject to paragraph (6) and to regulations 12 and 14 to 16, the rate of the annual compensation is $C - D$, where—

C is the annual rate of the retirement pension to which he would be entitled on the hypothesis specified in paragraph (4), and

D is the annual rate of the assumed retirement pension.

(4) The hypothesis is that—

(a) all his effective service counts as reckonable service, and

(b) the credited period counts as reckonable service after 30th September 1956.

(5) The assumed retirement lump sum and the assumed retirement pension are—

(a) where all his effective service counts as reckonable service, those to which he is entitled, and

(b) in any other case, those to which he would have been entitled if all his effective service had counted as reckonable service.

(6) Where—

(a) the material date is a date later than 30th August 1985, and

(b) an occupational pension is being paid in respect of service before the material date, and

(c) the aggregate of his effective service, any period in respect of which he is entitled to the occupational pension, and the credited period would exceed 40 years, and

(d) the aggregate of the annual rates for the time being of the occupational pension and of the annual compensation would exceed the relevant amount,

the rate of the annual compensation is to be reduced so that the relevant amount is not exceeded.

(7) For the purposes of paragraph (6)—

(a) the annual rates at any time of the annual compensation and of any other official pension within the meaning of the 1971 Act are their annual rates as increased under that Act, and

(b) the annual rate at any time of an occupational pension which is not such an official pension is its annual rate as increased under any contract, scheme or other arrangement.

- (8) The relevant amount mentioned in paragraph (6) is E + F, where—
E is the amount specified in paragraph (9), and
F is any amount by which E would have been increased if it had been the annual rate of an official pension within the meaning of the 1971 Act beginning, and first qualifying for increases under that Act, on the day after the material date.
- (9) The amount constituting E is—

$$\frac{G}{100} \times \left(50 - \frac{5 \times H}{4} \right)$$

where—

- G is his average salary, and
H is the length in years of his effective service.

(10) For the purposes of this regulation an occupational pension is a pension by way of periodical payments, other than a retirement pension under the Superannuation Regulations, which is payable under an occupational pension scheme; and for the purposes of paragraph (9) regulation E29 of the Superannuation Regulations (average salary) is in every case to be construed as if the former employment were pensionable employment.

Allocation of part of annual compensation

- 8.—(1) This regulation applies to a credited teacher who—
- (a) has under regulation E11 of the Superannuation Regulations allocated the largest permissible part of his retirement pension, and
 - (b) has, within one month after being given notification under regulation 19 of the rate of his annual compensation, given written notice to the compensating authority that he wishes this regulation to apply to him.
- (2) A person to whom this regulation applies may, by delivering a declaration to the compensating authority, allocate part of his annual compensation to the provision of an alternative benefit of either of the kinds described in regulation E11(2) of the Superannuation Regulations.
- (3) The ratio of the part allocated to the rate of the annual compensation must not be higher than the ratio of the part of the retirement pension that was allocated to that pension.
- (4) For the purposes of paragraph (3) any reduction under Part IV of the annual compensation is to be disregarded.
- (5) Regulation E11(3) of the Superannuation Regulations and paragraphs 1(1), 2(2), 4 to 6, 7(1) to (3), (5) and (6), and 9 to 11 of Schedule 11 to those Regulations are to be treated as applying, with any necessary modifications, in relation to the making of allocations under this regulation as they apply in relation to the making of allocations under those Regulations by persons to whom retirement benefits become payable by virtue of regulation E4(7) of those Regulations (redundancy, etc.).

- (6) The modifications include the substitution—
- (a) for references to a retirement pension of references to annual compensation,
 - (b) for references to the Secretary of State of references to the compensating authority, and
 - (c) for the reference in paragraph 10(1) to a retiring employee of a reference to a credited teacher.

Short-term compensation on death

- 9.—(1) This regulation applies where a credited teacher dies and a short-term pension—
- (a) becomes payable under regulation E23 of the Superannuation Regulations, or
 - (b) would have become so payable but for an election under regulation B6 of those Regulations.
- (2) Subject to regulation 11 (duration), where this regulation applies short-term compensation is to be paid to, or as the case may be for the benefit of, the person or persons who are or would have been entitled to payment of the short-term pension.

(3) Subject to paragraph (4) and to regulation 14, the rate of the short-term compensation is the rate at which the deceased's annual compensation would have been payable immediately before his death if any reduction under regulation 13, 15 or 16(4) had been left out of account.

(4) If the deceased died in new employment which was pensionable employment, he is for the purposes of paragraph (3) to be taken to have ceased to be in that employment immediately before his death.

(5) If the rate calculated in accordance with paragraph (3) is less than that of long-term compensation to which there is a prospective entitlement under regulation 10, the rate of the short-term compensation is the same as that of the long-term compensation.

Long-term compensation on death

10.—(1) This regulation applies where a credited teacher dies and one or more long-term pensions—

- (a) become payable under regulation E25 of the Superannuation Regulations, or
- (b) would have become so payable but for an election under regulation B6 of those Regulations.

(2) Subject to regulation 11 (duration), where this regulation applies long-term compensation is to be paid to, or as the case may be for the benefit of, every person who became or would have become entitled to payment of a long-term pension.

(3) Subject to regulation 14, the rate of the long-term compensation payable to a person who is not a child ("adult compensation") is one half of the notional annual compensation rate.

(4) Subject to regulation 14, the rate of the long-term compensation payable to or for the benefit of a child or children ("children's compensation") is the appropriate fraction of the notional annual compensation rate.

(5) While adult compensation is payable, then—

- (a) while children's compensation is payable to or for the benefit of two or more children, the appropriate fraction is one half, and
- (b) while it is payable to or for the benefit of one child, the appropriate fraction is one quarter.

(6) If adult compensation did not become payable, or has ceased to be payable, then—

- (a) while children's compensation is payable to or for the benefit of two or more children, the appropriate fraction is two thirds, and
- (b) while it is payable to or for the benefit of one child, the appropriate fraction is one third.

(7) Subject to paragraph (8), the notional annual compensation rate is the rate at which the deceased's annual compensation would have been payable immediately before his death if there had been left of account any allocation under regulation 8 and any reduction under regulation 12(4)(b), 13, 15 or 16(7).

(8) If the deceased died in new employment which was pensionable employment, he is for the purposes of paragraph (7) to be taken to have ceased to be in that employment immediately before his death.

Duration of compensation on death

11.—(1) Subject to paragraph (4), a person's short-term compensation under regulation 9 is payable from the day after that of the death and ceases to be payable—

- (a) after two months if he is the only child to or for whose benefit it was payable,
- (b) after three months if he is not a child,
- (c) after four months if he is one of two or more children to or for whose benefit it was payable,

or on his death if earlier.

(2) Subject to paragraphs (3) and (4), a person's long-term compensation under regulation 10 is payable—

- (a) from the day on which his short-term compensation ceases to be payable, or
- (b) if no short-term compensation was payable, from the day after that of the death,

and is payable for life.

(3) Unless the compensating authority determines otherwise in the particular case, long-term adult compensation is not payable during or after any marriage or period of cohabitation outside marriage.

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

PART IV ADJUSTMENTS

Redundancy payments

12.—(1) This regulation applies to a credited teacher—

- (a) whose credited period exceeds 6 $\frac{2}{3}$ rds years, and
- (b) who has received, or is entitled to receive, a redundancy payment in respect of the cessation of his former employment.

(2) If his lump sum compensation would exceed the relevant amount, it is to be reduced by that amount.

(3) If his lump sum compensation would equal the relevant amount, it is not to be paid.

(4) If his lump sum compensation would be less than the relevant amount—

- (a) it is not to be paid, and
- (b) the rate of his annual compensation is to be reduced in accordance with paragraph (6).

(5) The relevant amount is—

$$\left(\frac{3 \times A}{10} \times B \right) - C$$

where—

A is the amount of the redundancy payment,

B is the length of time, expressed in years and any fraction of a year, by which the credited period exceeds 6 $\frac{2}{3}$ rds years, and

C is any amount by which the redundancy payment is reduced under the Redundancy Payments Pensions Regulations 1965(a).

(6) The reduction mentioned in paragraph (4)(b) is to be calculated from the Table below.

TABLE

Age last birthday	Amount of reduction per £100 of difference between lump sum compensation and relevant amount	
	Men	Women
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.

Termination payments

13.—(1) This regulation applies to a credited teacher who receives a termination payment.

(2) A termination payment is the aggregate of any lump sum payments made to him by his former employer which—

- (a) are made in consequence of, or as compensation for, the loss of his former employment, and
- (b) are made in pursuance of any contract or arrangement or any provision contained in, or made under, any enactment, whenever made or enacted, and
- (c) are not made by way of compensation under regulation 7 or by way of an excepted payment.

(3) The excepted payments are—

- (a) a redundancy payment in respect of the cessation of his former employment, disregarding any reduction under the Redundancy Payments Pensions Regulations 1965, and
- (b) so much of any payment in lieu of notice of termination of that employment as does not exceed the remuneration he would, but for its termination, have received for the three months following the material date, and
- (c) compensation paid under regulation 5.

(4) If his lump sum compensation would exceed the termination payment, it is to be reduced by the amount of the termination payment.

(5) If his lump sum compensation would equal the termination payment, it is not to be paid.

(6) If his lump sum compensation would be less than the termination payment—

- (a) it is not to be paid, and
- (b) his annual compensation is to be reduced by the difference.

(7) If—

- (a) by reason of regulation 12(3) or (4) no lump sum compensation is payable, or
- (b) lump sum compensation was paid before the termination payment became payable,

his annual compensation is to be reduced by the amount of the termination payment.

(8) Reductions of annual compensation under paragraphs (6)(b) and (7) are reductions of the total amount payable, and accordingly payment is to be suspended until the full reduction has been achieved.

Periodic payments

14.—(1) This regulation applies where—

- (a) relevant periodic payments are payable to a credited teacher or to a person to whom compensation is payable under regulation 9 or 10, and
- (b) the material date is a date later than 31st August 1985.

(2) Relevant periodic payments are payments made by the credited teacher's former employer which—

- (a) are in respect neither of a lump sum nor of a return of contributions, and
- (b) are made as mentioned in regulation 13(2).

(3) If the relevant periodic payments in respect of any period equal or exceed the annual or other compensation that would be payable in respect of that period, the compensation is not to be paid.

(4) If the relevant periodic payments in respect of any period are less than the compensation, the compensation is to be reduced by the amount of those payments.

New employment

15.—(1) References in this regulation to regulation E14 are references to regulation E14 of the Superannuation Regulations.

(2) This regulation applies while a credited teacher is in employment falling within regulation E14(1)(a) or (b) ("new employment"); but if he is concurrently both in

employment falling within regulation E14(1)(a) and in other new employment it applies only in respect of the former.

(3) Where this regulation applies in respect of employment falling within regulation E14(1)(a)–

- (a) while the assumed retirement pension would fall to be reduced under regulation E14(3), no annual compensation is to be paid, and
- (b) while sub-paragraph (a) does not apply, the rate of his annual compensation is to be reduced by the excess (if any) of $(A + G + H)$ over $(C + D - E)$, where A, C, D and E are the same as in regulation E14(3) and–
 - G is the full annual rate of his annual compensation, and
 - H is the annual rate of the assumed retirement pension.

(4) Where this regulation applies in respect of employment falling within regulation E14(1)(b)–

- (a) for any pension quarter in which the assumed retirement pension would fall to be reduced under regulation E14(4), no annual compensation is to be paid, and
- (b) for any other pension quarter the rate of his annual compensation is to be reduced by the excess (if any) of $(F + G + H)$ over $(C + D - E)$, where C, D, E, G and H are the same as in paragraph (3)(b) and F is the same as in regulation E14(4).

(5) For the purposes of paragraphs (3) and (4)–

- (a) regulation E14(3) and (4) are in every case to be construed as if the former employment were pensionable employment, and
- (b) if the credited teacher has more than one entitlement to annual compensation, G comprises his total annual compensation but each component is to be reduced only in the proportion which it bears to that total,

and for the purposes of paragraph (4) the pension quarters are the same as in regulation E14(5).

Cessation of new employment

16.—(1) This regulation applies where–

- (a) a credited teacher has ceased to be in new employment, other than employment in comparable British service, and
- (b) the condition in paragraph (2) is satisfied.

(2) The condition is that $A + B + (C - D) + E$ exceeds F, where–

- A is his effective service,
- B is any period, after the material date and before the earlier of the cessation of the new employment and his 65th birthday, which he is entitled, or would have been entitled if the new employment had been pensionable employment, to count as reckonable service,
- C is the credited period,
- D is any period by reference to which a previous reduction was calculated under paragraph (3),
- E is any period of additional service, or increase in his period of service, falling within paragraph 1 of Part II of the Schedule, and
- F is what his effective reckonable service would be on the assumption that his former employment was pensionable employment and continued until his 65th birthday.

(3) The full rate of his annual compensation is to be reduced by–

$$\frac{G \times H}{80}$$

where–

- G is the shortest of B, $(C - D)$, and the excess of $A + B + (C - D) + E$ over F, and
- H is the smaller of his average salary in his former employment and the amount specified in paragraph (4).

(4) The amount is—

$$J - \frac{J \times K}{K + 100}$$

where—

J is his average salary in his new employment, and

K is the amount by which an official pension within the meaning of the 1971 Act would, by the day after the cessation of the new employment, have been increased if it had begun, and first qualified for increases under that Act, on the day after the material date and had then been payable at an annual rate of £100.

(5) For the purposes of paragraph (3) the full rate of his annual compensation is the rate at which it would be payable if no account were taken of any suspension or reduction under regulation 13 or 14, and any reduction required by a previous application of this regulation.

(6) For the purposes of paragraphs (3) and (4) regulation E29 of the Superannuation Regulations (average salary) is in every case to be construed as if the former employment and the new employment were pensionable employment.

(7) The total amount of annual compensation payable is to be reduced by three times the reduction under paragraph (3) in its full rate, and payment is to be suspended until the reduction required by this paragraph has been achieved.

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Liability for compensation

17.—(1) Subject to paragraph (6), the cost of compensation to which a person is entitled under these Regulations is to be met by the compensating authority.

(2) Subject to paragraphs (3) to (5), the compensating authority is to be ascertained from the first and third columns of the table in Part I of the Schedule.

(3) Where—

(a) the former employment fell within category D, E, F or G, and

(b) in consequence of any amalgamation, merger or other arrangement the institution or university becomes part of another (the “successor establishment”) and ceases to have a separate governing body,

the governing body of the successor establishment becomes the compensating authority.

(4) Where—

(a) the former employment fell within category D or E, and

(b) the institution closes and there is no successor establishment,

the local education authorities who provided the institution with assistance become, jointly, the compensating authority, and each is to meet that proportion of the cost which the aggregate of the assistance it provided during the three years preceding the closure bears to the aggregate of the assistance provided by them all.

(5) Where—

(a) the former employment fell within category F or G, and

(b) the institution or university closes and there is no successor establishment,

the Secretary of State becomes the compensating authority.

(6) Where the former employment fell within category C, the Secretary of State may—

(a) require the governing body of the school to repay him any amounts paid by him in respect of compensation, or

(b) accept from the governing body a single payment of a sum equal to the actuarial value of the total compensation payable, or

- (c) accept from them the payment of such a sum by not more than five annual instalments.

Arrangements for payment

- 18.—(1) A compensating authority may—
- (a) itself pay any compensation for which it is liable under regulation 17, or
 - (b) arrange for the compensation to be paid by any suitable person and for its reimbursement by the authority.
- (2) Arrangements for reimbursement may provide—
- (a) for the periodical repayment by the authority of amounts paid on its behalf, or
 - (b) for a single payment by the authority of a sum equal to the actuarial value of the total compensation payable, or
 - (c) for the payment of such a sum by not more than five annual instalments.

Notification

- 19.—(1) As soon as is reasonably practicable after—
- (a) a teacher has been credited with a period of service under regulation 6, or
 - (b) a credited teacher has died, or
 - (c) any adjustment has been made under Part IV,
- the compensating authority is to give a written notification to every person to whom compensation became payable or whose compensation is affected.
- (2) The notification is to state—
- (a) where paragraph (1)(a) or (b) applies, what compensation is payable, and
 - (b) where paragraph (1)(c) applies, what adjustment has been made,
- and how the compensation or adjustment has been calculated.

Information

- 20.—(1) A credited teacher is, within one month after entering or leaving a new employment, to notify the compensating authority in writing that he has done so.
- (2) A person to whom compensation is payable is to provide the compensating authority with such information, and to produce such documents, as the authority may reasonably require for the purposes of its functions under these Regulations.

Payment of compensation

- 21.—(1) Compensation, other than lump sum compensation, is to be paid in arrears—
- (a) at intervals of one month, or
 - (b) at such longer intervals as may be agreed between the compensating authority and the recipient.
- (2) Where compensation ceases to be payable before the next date on which a payment would be due, a proportionate payment is to be made for the period ending on the date of cessation.
- (3) A proportionate payment is a payment of—
- $$\left(\frac{A}{12} \times B\right) + \left(\frac{A}{12} \times \frac{C}{D}\right)$$
- where—
- A is the annual rate of the compensation,
 - B is the number of complete months, if any, in the period,
 - C is the number of days remaining in the period after deducting B, and
 - D is the number of days in the month in which the period ended.
- (4) If a person entitled to payment of compensation has not attained the age of 18, or is incapable by reason of infirmity of mind or body of managing his affairs, the compensating authority may—

- (a) pay it to any person having the care of the person entitled, or
- (b) apply it for the benefit of the person entitled or his dependants.

Compensation not assignable

22.—(1) Any assignment of or charge on or agreement to assign or charge any compensation payable under these Regulations is void.

(2) On the bankruptcy of a person entitled to such compensation no part of the compensation passes to any trustee or other person acting on behalf of the creditors, except in accordance with an income payments order made by a court under section 310 of the Insolvency Act 1986(a).

Revocation and transitional provisions

23.—(1) The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1985(b) are revoked.

(2) Part III of the Schedule has effect with respect to transitional matters in connection with the coming into force of these Regulations.

SCHEDULE

Regulations 6, and 23

PART I

DECIDING AND COMPENSATING AUTHORITIES

<i>Employment category</i>	<i>Deciding authority</i>	<i>Compensating authority</i>
A	Governing body	Local education authority
B	Local education authority	Local education authority
C	Governing body	Secretary of State
D, E, F, G	Governing body	Governing body

PART II

PREVIOUS COMPENSATION

1.—(1) This paragraph applies where, before the cessation of his former employment, a credited teacher 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(c) (compensation for loss of office) on account of loss of employment, or
- (b) benefit under regulations made under section 260 of that Act (early retirement in lieu of compensation for loss of office), or
- (c) compensation under any scheme made under section 1 of the Superannuation Act 1972(d) (civil servants, etc.) on account of his retirement in the public interest, or for loss of office, or

(a) 1986 c.45.

(b) S.I. 1985/1181.

(c) 1972 c.70; section 259 was amended by the Food Act 1984 (c.30), Schedule 10, paragraph 23.

(d) 1972 c.11.

- (d) compensation under these Regulations or any other regulations made under section 24 of that Act (loss of office, etc.) 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, or
- (e) compensation under any contract or arrangement made before 31st August 1985 in the expectation that regulations would be made under that section providing for compensation for such termination of employment.

(2) Any reference in sub-paragraph (1) to instruments made under a specified enactment includes a reference to any instrument made under any enactment to the like effect, whenever enacted.

2. The period to be deducted, where paragraph 1 applies, from the first period mentioned in regulation 6(1)(b) is $A - B - C$, where—

- A is the period with which he has been credited, or by which his service has been increased, as mentioned in paragraph 1,
- B is any period by which A has been reduced in consequence of the cessation of subsequent employment, and
- C is the aggregate of any periods falling between the cessation of employment that gave rise to A and the material date during which he was neither in pensionable employment nor in employment which would have been pensionable employment but for an election under regulation B6 of the Superannuation Regulations.

PART III

TRANSITIONAL PROVISIONS

1. Where a period of time specified in, or applying by virtue of, a provision of the 1985 Regulations is current at the commencement of these Regulations, these Regulations have effect as if the corresponding provision of these Regulations had been in force when that period began to run.

2. Where—

- (a) the material date is a date earlier than the commencement of these Regulations, and
- (b) immediately before the material date an election made, or falling to be treated as having been made, under regulation B6 of the Superannuation Regulations (election not to be pensionable) had effect,

regulation 6(1) (additional service credit) has effect with the substitution for the words "the material date", where first occurring, of the words "1st April 1989".

3. As respects the period beginning on 1st November 1988 and ending with 31st March 1989, any reference in the 1985 Regulations to, or to things done or falling to be done under or for the purposes of, any provision of the Teachers' Superannuation Regulations 1976(a) is, if and so far as the nature of the reference permits, to be taken to have included, in relation to circumstances or purposes in relation to which the corresponding provision in the Superannuation Regulations had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.

23rd February 1989

Kenneth Baker
Secretary of State for Education and Science

We Consent

1st March 1989

Stephen Dorrell
David Lightbown
Two of the Lords Commissioners of Her Majesty's Treasury

(a) S.I. 1976/1987, revoked by S.I. 1988/1652.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1985 ("the 1985 Regulations"). In many respects their effect is the same as that of the 1985 Regulations. The following are the main changes.

The premature retirement provisions of the 1985 Regulations applied only where the employment terminated was pensionable under regulations made under section 9 of the Superannuation Act 1972 (superannuation of teachers). Since 6th April 1988 the section 9 regulations (later consolidated in the Teachers' Superannuation (Consolidation) Regulations 1988) have, in compliance with section 15 of the Social Security Act 1986 (c.50), permitted employees who would otherwise have been pensionable to elect not to be so. The premature retirement provisions of these Regulations apply in relation to former employees who had so elected as well as to ones who were pensionable (regulations 3(2), (3), 4(2), (3), 9(1)(b), 10(1)(b)).

Premature retirement compensation under the 1985 Regulations fell to be calculated in all cases by reference to the superannuation benefits to which the former employee was entitled, and a notional addition to his reckonable service, under section 9 regulations. These Regulations provide for the calculation to be made by reference to notional benefits, and wholly notional reckonable service, where he had elected not to be pensionable (regulation 7(2)–(5), with regulation 6(2)).

Under the 1985 Regulations the decision whether to award premature retirement compensation fell to be made by the authority who would become liable to pay it (in most cases, the contractual employer). The new financial arrangements for schools and institutions made by the Education Reform Act 1988 are reflected in regulations 6(1) and 17(1) and (2) of these Regulations, with regulation 3(7) and Part I of the Schedule; the deciding and paying authorities are not in all cases the same.

Regulation 17(3)–(5) makes more comprehensive provision than was made in the 1985 Regulations for the devolution of liability to pay compensation in the event of the original authority's ceasing to exist, and regulation 17(6) enables the Secretary of State to recover compensation paid by him from the governing body where the employment was at a grant-maintained school.

Regulation 18(1) extends the range of persons with whom a compensating authority may make arrangements for the payment of compensation, and regulation 18(2) enables the parties to such arrangements to agree that reimbursement of payments made is to be compounded.

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