
STATUTORY INSTRUMENTS

1994 No. 1058

EDUCATION, ENGLAND AND WALES

The Teachers Superannuation (Amendment) Regulations 1994

<i>Made</i>	- - - -	<i>12th April 1994</i>
<i>Laid before Parliament</i>		<i>13th April 1994</i>
<i>Coming into force</i>		
	<i>except for regulation 18</i>	<i>1st May 1994</i>
	<i>regulation 18</i>	<i>1st October 1994</i>

The Secretary of State, in exercise of the powers conferred by sections 9 and 12 of the Superannuation Act 1972(1) and Schedule 3 thereto, after consulting with representatives of the local education authorities, teachers and other persons likely to be affected in accordance with section 9(5) of that Act, and with the consent of the Treasury(2), hereby makes the following Regulations:

Citation, commencement and application

1. These Regulations may be cited as the Teachers' Superannuation (Amendment) Regulations 1994 and shall come into force on 1st May 1994 except for regulation 18 which shall come into force on 1st October 1994.

2. Subject to the provision of regulation 27, below the Teachers' Superannuation (Consolidation) Regulations 1988(3) shall be amended as follows.

Part-time employment

3. In regulation B2(1) for sub-paragraph (d) there shall be substituted the following sub-paragraph—

“(d) is employed as a teacher or organiser by the Avon and Bristol Federation of Boys Clubs, the Christian Education Movement, the LASER Advisory Council, the Service Children's Schools (North-West Europe), the Sports Council or the Workers Educational Association, or”.

(1) 1972 c. 11; section 9 was amended by sections 4(1), 8(3) and (4) and 11 of the Pensions (Miscellaneous) Provisions Act 1990 (c. 7) and section 12 was amended by section 10 of that Act.
(2) See S.I.1981/1670.
(3) S.I. 1988/1652; the relevant amending instruments are S.I. 1989/378 and 811 and 1993/114.

Exclusion from pensionable employment

4. In regulation B5(1)(b) there shall be omitted the words “or maternity leave” and there shall be inserted at the end the words “, or on maternity leave and entitled to be paid any contractual remuneration or statutory maternity pay”.

Resumption of pensionable status

5. In regulation B7—

- (a) in paragraph (1) the words “Subject to paragraphs (5) and (6),” shall be omitted; and
- (b) paragraphs (5) and (6) shall be omitted.

Additional contributions for past period

6. In regulation C3(a)—

- (a) in paragraph (1)(a) the words “except where paragraph (5) applies,” shall be omitted;
- (b) the word “or” shall be inserted after paragraph (2)(b);
- (c) paragraph (2)(d) and the word “or” preceding it shall be omitted;
- (d) paragraphs (3) and (5) shall be omitted;
- (e) paragraph (6)(g)(ii) and the word “or” preceding it shall be omitted; and
- (f) paragraph (12)(d)(ii) and the word “and” preceding it shall be omitted.

Additional contributions for past period by family pensioner

7. Regulation C4(1)(a)(ii) shall be omitted.

Additional contributions for current period

8. In regulation C8(1)(d) there shall be inserted at the end “or is not engaged in full-time employment in a capacity described in Part II of Schedule 2”.

Repayment of certain contributions paid for family benefits

9. Regulation C12(1)(b) shall be omitted.

Return of repaid contributions

10. In regulation C14 after paragraph (9) there shall be inserted the following paragraph—

“(10) For the purposes of this regulation, a person is to be treated as being in pensionable employment if he is paying additional contributions under regulation C8 or C8A and such person may, except where paragraph (2)(b) applies, elect to make the return by instalments under paragraph (7).”.

Reckonable service generally

11. In regulation D1 after paragraph (3) there shall be inserted the following paragraph—

(4) In calculating the length of reckonable service—

- (a) no account shall be taken of a leap year day (29th February) except as provided in sub-paragraph (b) below; but

- (b) where total reckonable service which includes part of a year ends in a leap year on or after the leap year day that day shall be included in the number of days of reckonable service.

Avoidance of duplicate pensions

12. Regulation E9(1)(b) shall be amended by substituting for the words “and community charges” the words “, community charges or council tax”.

Abatement of retirement pension during further employment

13. In regulation E14—

- (a) in paragraph (3) there shall be omitted the words “in respect of employment falling within paragraph (1)(a)”; and
- (b) paragraphs (4) and (5) shall be omitted.

Death grants

14. In regulation E19 there shall be inserted—

- (a) at the end of paragraph (1)(c) the words “and was not in receipt of any retirement pension to which he was entitled by virtue of regulation E4(6) by reason of his incapacity”; and
- (b) in paragraph (7)(a) after the words “it is to be paid”, the words “to the person nominated by the deceased to receive the grant or, in the absence of such a nomination,”.

Supplementary death grants

15. In regulation E20(6)(b) there shall be inserted after the words “it is to be paid” the words “to the person nominated by the deceased to receive the grant or, in the absence of such a nomination,”.

Family benefits generally

16. In regulation E21(5)(b) there shall be inserted after the word “calling” the words—

“and he has been receiving such education or attending such course of training or both continuously since having attained that age without a break at any one time of longer than a year”.

Nomination of beneficiaries

17. In regulation E22(1) for the words “while in pensionable employment” there shall be substituted the words “before retirement benefits have been paid”.

Payment by employers to Secretary of State

18. In regulation G6—

- (a) in paragraph (1) for “14” there shall be substituted “7”; and
- (b) in paragraph (3) for “14” there shall be substituted “7” and for “15th” there shall be substituted “8th”.

Modified application in case of employment at reduced salary

19. In regulation H1—

- (a) in paragraph (1)(a) after the word “salary” there shall be inserted the words “in a different post”; and
- (b) after paragraph (3) there shall be inserted the following paragraph—
 - “(4) Where a statutory corporation becomes a person’s employer by virtue of the operation of any of the provisions of the Education Acts 1944 to 1993 or any enactment made thereunder regarding the transfer of staff or the transfer of rights and liabilities under a contract of employment then, for the purposes of this regulation, that corporation shall be treated as the same employer as the employer who employed that person immediately before his employment was so transferred.”.

Amendment to glossary of expressions

20. In Schedule 1—

- (a) after the entry relating to the expression “Further education” there shall be inserted the following entry—
 - ““Grant-maintained special school” hThe meaning given in sections 182(3) and 187(3)(b) of the Education Act 1993”; and
- (b) in the entry relating to the expression “incapacitated”, for the words “a rate” there shall be substituted the words “rates, community charges or council tax levied by local authorities”.

Pensionable employment

21. In Schedule 2—

- (a) in paragraph 2 there shall be substituted for the word “not” the words “which is not a grant-maintained special school or”;
- (b) in paragraph 3 after the word “State” there shall be inserted the words “or a funding authority within the meaning of section 5 of the Education Act 1993”;
- (c) after paragraph 3 there shall be inserted the following paragraph—
 - “**3A.** Teacher in a grant-maintained special school.”;
- (d) in paragraph 24(a)—
 - (i) the words “the Council for National Academic Awards,” shall be omitted; and
 - (ii) at the appropriate places in alphabetical order there shall be inserted the words—
 - “the Association of Business Schools,”
 - “the Church of England Board of Education,”
 - “the Education 2000 Trust,” and
 - “the London Open College Federation,”;
- (e) for paragraph 26(b) there shall be substituted the following paragraph—
 - “**26.** Teacher employed in—
 - the British School of Brussels, (Belgium),
 - the British School in the Netherlands,
 - the British School of Paris (France),
 - St Julian’s School (Carcavelos, Portugal), or
 - Mougins School (Mougins, France)”.

Additional contributions for past period—Method D

22. Part IV of Schedule 4 shall be omitted.

Additional contributions for past period under earlier provisions

23. In Part I of Schedule 5—

- (a) in paragraph 1(1) for the words “and 3” there shall be substituted the words “, 3 and 3A”;
- (b) for sub-subparagraph (b) of paragraph 1(5) there shall be substituted the following sub-subparagraph—

“(b) has effect from the beginning of the month following the month in which the Secretary of State gives written notice of his acceptance of the election.”; and

- (c) after paragraph 3 there shall be inserted the following paragraph—

“3A.—(1) A person may elect, by giving written notice to the Secretary of State, to cease to pay contributions payable by Method 1 but, in the case of such election being made, any additional contributions paid up to that time are not to be refunded.

(2) An election under this paragraph has effect only if the Secretary of State notifies the person in writing that it has been accepted.”.

Uncompleted payment of additional contributions

24. In Schedule 7 after paragraph 5 there shall be inserted the following paragraph—

“6.—(1) This paragraph applies where a person paying additional contributions for a past period in accordance with Method 1, as described in paragraph 1 of Schedule 5, elects to cease to pay such contributions in accordance with paragraph 3A of that Schedule.

- (2) Where this paragraph applies, the person is entitled to count as reckonable service—

$$A \times \frac{C}{B}$$

where—

A is the past period,

B is the contribution period, and

C is so much of B as had elapsed by the date on which the election has effect in accordance with paragraph 3A(2) of Schedule 5.”.

Allocation of part of retirement pension

25. In paragraph 1 of Part I (contents of declaration) of Schedule 11 after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(3) The part allocated must not be such as to cause the retirement pension payable to be less than the guaranteed minimum.”.

Transfer values

26. In paragraph 11(2) of Part III (inward transfers) of Schedule 12, for the words “the cash equivalent” there shall be substituted the words “an actuarial”.

Transitional provisions

27.—(1) The amendment to regulation E21(5)(b)

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made by regulation 16 above shall not apply in relation to a provision to or for the benefit of a child of a person who died before 1st May 1994.

(2) The amendment to regulation H1 made by regulation 19(a) above shall not apply in relation to a person whose employment at a reduced rate started before 1st May 1994.

30th March 1994

John Patten
Secretary of State for Education

We consent

12th April 1994

Tim Wood
Timothy Kirkhope
Two of the Lords Commissioners of Her Majesty
s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Teachers Superannuation (Consolidation) Regulations 1988 (“the Principal Regulations”).

Regulation 3 lists part-time teachers and organisers in certain organisations who are eligible to participate in the Teachers Superannuation Scheme.

Regulation 4 amends regulation B5(1)(b) of the Principal Regulations so as to provide that a person who is on maternity leave and entitled to be paid any contractual remuneration or statutory maternity pay can be in pensionable employment. There is no qualification as to the amount of that remuneration or maternity pay.

Regulation B7 of the Principal Regulations provided that, once a person who had already elected under that regulation to resume pensionable status made a further election under regulation B6 to cease to be in pensionable employment, then there had to be a qualifying period of not less than 5 years before he could make another election under regulation B7. Regulation 5 of these Regulations removes the requirement for a qualifying period.

Regulations 6, 7 and 22 remove references to Method D which is now obsolete as a means of paying additional contributions.

Regulation 8 provides that a person may not elect to pay additional contributions under regulation C8 if he is engaged in full-time employment in a capacity described in Part II of Schedule 2.

Regulation 9 removes one of the options given to scheme members in respect of the repayment to them of family benefit contributions.

Regulation 10 provides that a person who is paying additional contributions under regulation C8 or C8A of the Principal Regulations (“current added years”) is eligible to repay previously withdrawn contributions.

Regulation 11 makes specific provision for leap years in the calculation of reckonable service.

Regulation 13 provides that the abatement of retirement pension during further employment is calculated in the same way in all cases to which regulation E14 of the Principal Regulations applies.

Regulation 14 clarifies the circumstances in which a death grant will be paid and that regulation, together with regulation 15, provides for death grants to be paid first to the person nominated by the deceased and, only in the absence of such a nomination, to the persons previously specified in regulations E19 and E20 of the Principal Regulations.

Regulation 16 places a limitation in the definition of “child” in regulation E21(5)(b) of the Principal Regulations.

Regulation 17 allows an unmarried person to nominate a beneficiary to receive a pension under regulations E23 to E28 of the Principal Regulations, even if he is no longer in pensionable employment, provided no retirement benefits have yet been paid.

Regulation 18 provides that employers of persons in pensionable employment must pay the employees and the employers contributions over to the Secretary of State within 7 days of the end of the month rather than within 14 days as previously, and that interest is payable on amounts outstanding from the 8th day from the end of the month, rather than from the 15th day as previously.

Regulation 19 clarifies the application of regulation H1 of the Principal Regulations. The employment at a reduced rate of contributable salary must be in a different post. An employer will

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be the same employer if it is a statutory corporation which has become the new employer by or under provisions of the Education Acts.

Regulation 21 makes changes to the list of employments specified in Schedule 2 to the Principal Regulations.

Regulation 23 allows a person to elect to cease to pay contributions under Method 1 as set out in Part I of Schedule 5 to the Principal Regulations. The date on which an election to pay contributions at a higher rate takes effect, as provided for in that Schedule, is also amended.

Regulation 24 makes provision for the calculation of reckonable service where an election to cease to pay additional contributions by Method 1 has been made.

Regulation 25 provides that where part of the retirement pension is allocated to the provision of an alternative benefit under regulation E11 of the Principal Regulations, the retirement pension which remains must not be less than the guaranteed minimum.

Regulation 26 provides for the “transfer value” referred to in paragraph 11(2) of Part III of Schedule 12 to the Principal Regulations to be calculated on an actuarial basis and not on a cash equivalent basis.

Regulation 27 provides for transitional provisions.