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STATUTORY INSTRUMENTS

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**1996 No. 2269**

**EDUCATION, ENGLAND AND WALES**

**The Teachers' Superannuation (Amendment) Regulations 1996**

*Made* - - - - *29th August 1996*  
*Laid before Parliament* *10th September 1996*  
*Coming into force* - - *1st October 1996*

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

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Teachers' Superannuation (Amendment) Regulations 1996 and shall come into force on 1st October 1996 but —

- (a) regulations 3 and 19(a) and (b) shall have effect from 1st September 1996; and
- (b) regulation 18 shall have effect from 1st April 1996.

(2) In these regulations “the principal Regulations” means the Teachers' Superannuation (Consolidation) Regulations 1988.(3)

**Amendment of principal Regulations**

- 2. The principal Regulations shall be amended in accordance with regulations 3 to 25 below.
- 3. In regulation B4(2)(a) (employment in accepted school) the words “unrelated to its profits or its other performance as an economic enterprise” shall be omitted.
- 4. In regulation C1 (salary on which contributions are payable) —
  - (a) for paragraphs (1) to (3) there shall be substituted the following paragraphs —

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(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; relevant amending regulations are S.I. 1989/378, 1993/114 and 1994/1058.

“(1) Subject to paragraphs (3) to (3B) and (6) to (12), the contributable salary of a person to whom the School Teachers' Pay and Conditions Act 1991(4) (“the 1991 Act”) applies is the total of —

- (a) the amounts payable by his employer under any order under section 2 of the 1991 Act for the time being in force or under any document referred to in such an order;
- (b) the amounts payable by his employer in respect of his pensionable employment in satisfaction of any contractual liability arising out of sickness or maternity;
- (c) the amounts payable by his employer in respect of his pensionable employment in satisfaction of any statutory liability arising out of sickness or maternity; and
- (d) if the employer has satisfied the Secretary of State that it is expedient for residential accommodation to be provided free in connection with the employment, the money value as an allowance in kind of —
  - (i) the accommodation provided, and
  - (ii) any heat, lighting or water provided free or council tax paid in connection with it.

(2) Subject to paragraphs (3) to (12), the contributable salary of a person to whom paragraph (1) does not apply is the total of —

- (a) all the salary, wages, fees and other payments paid to him for his own use in respect of his pensionable employment;
- (b) the amounts mentioned in paragraph 1(c); and
- (c) the amounts mentioned in paragraph 1(d).

(3) If the money value of any accommodation provided free exceeds one sixth of the aggregate of the amounts mentioned in paragraph (1)(a) to (c), or, as the case may be, paragraph (2)(a) and (b), the excess is not part of the person's contributable salary.

(3A) A person's contributable salary does not include —

- (a) any allowance in kind not falling within paragraph (1)(d) or (2)(c);
- (b) any payment by way of bonus;
- (c) any payment in respect of overtime, or
- (d) any payment by way of travelling or expense allowance.

(3B) For the purposes of paragraph (3A) —

- (a) a payment by way of bonus shall not include any payment calculated by reference to the performance of the person in question or the performance of the institution where he is employed;
- (b) a payment by way of bonus shall not include any payment made to the person in question where such a payment is made as part of a pay settlement which applies to all persons, or to all persons of a particular class or description, employed at the institution;
- (c) if at any time a payment is made to a person which is not part of his contributable salary then any subsequent payment of the same nature is a payment by way of bonus (whether or not it is described as such); and

- (d) if at any time a payment is made to a person which is part of his contributable salary then any subsequent payment of the same nature is not a payment by way of bonus (whether or not it is described as such).”.
  - (b) in paragraph (7)(a) for the number “6”there shall be substituted the number “3”;
  - (c) for paragraph (7)(b) there shall be substituted the following sub-paragraph —
    - “(b) has effect from the day after the last day on which the person’s salary was payable at the rate applicable immediately before the reduction.”.
5. In regulation C3 (additional contributions for past period) —
- (a) the word “or”shall be inserted at the end of paragraph (2)(a);
  - (b) paragraph (2)(c) and the word “or”preceding it shall be omitted;
  - (c) after paragraph (2) there shall be inserted the following paragraph —
    - “(2A) Subject to paragraphs (6), (7), (9) and (12A) the employer of a person to whom this regulation applies may elect to pay additional contributions in respect of the person in accordance with Part II of Schedule 4 (“Method B”).”;
  - (d) paragraph (4) shall be omitted;
  - (e) in paragraph (6) the word “and”shall be inserted at the end of sub-paragraph (d) and sub-paragraph (f) shall be omitted;
  - (f) in paragraph (8) sub-paragraph (b) and the word “and”preceding it shall be omitted;
  - (g) in paragraph (11) the words “or C”shall be omitted;
  - (h) in paragraph (12) —
    - (i) for the words “under this regulation”there shall be substituted the words “under paragraph (2)”;
    - (ii) in sub-paragraph (c) the words “or C”shall be omitted;
  - (i) after paragraph (12) there shall be inserted the following paragraph —
    - “(12A) An election under paragraph (2A) must be made by giving written notice to the Secretary of State which —
      - (a) is to specify the person in respect of whom it is made, and
      - (b) is to specify the past period.”;
  - (j) paragraphs (13A)(5) and (15) shall be omitted.
6. In regulation C8 (additional contributions for current period) for paragraph (7) there shall be substituted the following paragraph —
- “(7) For the purposes of paragraph (6) —
    - (a) the notional salary is an amount notified by the former employer or, where no such notification is given, estimated by the Secretary of State as being what the person’s contributable salary would have been if pensionable employment had not ceased and the person had continued to be employed in the same post and on the same terms; and
    - (b) the percentage is (A+B) where A is the percentage specified in regulation G4(3) and B is any percentage specified under regulation G4(7) and (8).”.
7. In regulation C10 (right to repayment of balance of contributions) —
- (a) paragraph (1)(a) and the words “in any other case”in paragraph (1)(b) shall be omitted;

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(5) paragraph (13A) was inserted by [S.I. 1993/114](#).

- (b) for paragraph (2) there shall be substituted the following paragraph —  
 “(2) The relevant period is the period of one month beginning when he ceased to be in pensionable employment.”.
- 8.** In regulation C14 (return of repaid contributions) —
- (a) for paragraph (2) there shall be substituted the following paragraph —  
 “(2) The return —  
 (a) may in any case, and  
 (b) if the amount of the contributions, together with the interest payable does not exceed £500, must be made by a single payment which must be made within ten weeks of the giving of notice under paragraph (1).”.
- (b) in paragraph (7) the words “are of equal amounts and” shall be omitted;
- (c) after paragraph (7) there shall be inserted the following paragraph —  
 “(7A) Instalments are of equal amounts unless in any year the payment of an instalment of an amount equal to that paid in previous years would exceed the limit specified in paragraph (8) and in that event the instalments (and the corresponding period over which they are payable) shall be recalculated so that they do not exceed that limit.”;
- (d) for paragraph (8) there shall be substituted the following paragraph —  
 “(8) The annual amount of instalments paid under paragraph (7) is to be such that A+B does not exceed 15% of the annual rate of the person’s contributable salary in the year where —  
 A is the annual amount of the instalments; and  
 B is the annual amount of other contributions paid under Part C (except any treated for the purposes of regulation G2 as employer’s contributions) or towards the provision of a pension otherwise than under these Regulations.”.
- 9.** In regulation C16(1)(b) the words “or III” shall be omitted.
- 10.** In regulation D3 (past period for which additional contributions have been paid) —
- (a) in paragraph (1) —
- (i) the word “or” shall be omitted from the end of sub-paragraph (a) and inserted at the end of sub-paragraph (b);
- (ii) in sub-paragraph (b) the words “or Part III” shall be omitted; and
- (iii) after sub-paragraph (b) there shall be inserted the following sub-paragraph —  
 “(c) in respect of whom payment of additional contributions for a past period in accordance with Part II of Schedule 4 has been made,”.
- (b) after paragraph (1) there shall be inserted the following paragraphs —  
 “(1A) For the purposes of paragraph (1) a person who has at any time during the contribution period been in part-time pensionable employment shall not be treated as having completed the payment of additional contributions in accordance with Part I of Schedule 4 unless (in addition to the payments in accordance with that Part) he pays a lump sum determined in accordance with paragraph (1B).  
 (1B) The lump sum referred to in paragraph (1A) is such sum as would be payable under Part II of Schedule 4 in order to count as reckonable service a period equivalent to the difference between the length of reckonable service which arises from the additional contributions paid during the contribution period and the length of such service if

the person had been in full-time pensionable employment throughout the contribution period and paid additional contributions accordingly.

(1C) In paragraphs (1A) and (1B) “the contribution period” means the period during which additional contributions in accordance with Part I of Schedule 4 were paid.”

(c) in paragraph (2) the words “or Part III” shall be omitted.

11. In regulation E4 (entitlement to payment of retirement benefits) —

(a) in paragraph (7) for sub-paragraph (c) there shall be substituted the following sub-paragraph —

“(c) has ceased after attaining that age to be —

(i) in pensionable employment;

(ii) in excluded employment; or

(iii) in employment which would be pensionable employment but for the fact that the person has not made an election under regulation B1(4), and”;

(b) for paragraph (9) there shall be substituted the following paragraph —

“(9) In Case E the entitlement takes effect —

(a) where immediately before the person became incapacitated he was in employment of the type described in paragraph (7)(c)(ii) or (iii), on the day after the last day of his employment; and

(b) in any other case —

(i) as soon as the person falls within the case, or

(ii) if later, 6 months before the date of the last of any medical reports considered by the Secretary of State in determining under regulation H7 that the person has become incapacitated.”.

12. After regulation E18 there shall be inserted the following regulation —

**“Commutation: exceptional circumstances of ill health**

**E18A.**—(1) Where at the time when a person first becomes entitled to a retirement pension by virtue of regulation E4(4A)(6) or (6) there are exceptional circumstances of serious ill health affecting that person the Secretary of State may discharge her liability in respect of so much of that pension as exceeds the person’s guaranteed minimum by payment of a lump sum calculated in accordance with paragraph (2).

(2) The lump sum is an amount equal to five times the amount by which the annual rate of the retirement pension which would otherwise be payable to the person exceeds the amount of his guaranteed minimum.”.

13. In regulations E19(7)(7) (death grants) and E20(6) (supplementary death grants) for the word “person” in both places where it occurs there shall be substituted the word “individual.”

14. In regulation E23 (short-term family benefits) for paragraph (2) there shall be substituted the following paragraph —

“(2) The short-term pension is payable —

(a) subject to paragraph (3)(a) to any surviving spouse, or, if a nomination under regulation E22 had effect at the time of his death, to the nominated beneficiary; and

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(6) Regulation E4(4A) was inserted by S.I. 1993/114.

(7) Regulations E19(7) and E20(6) were amended by S.I. 1989/378, 1993/114 and 1994/1058.

(b) if the deceased is survived by a child or children of his, to or for the benefit of the child or, as the case may be, the children jointly.”.

**15.** In regulation E24(8) (amount and duration of short-term family benefits) —

(a) for paragraph (3) there shall be substituted the following paragraph

“(3) Subject to paragraph (4) the duration of the short-term pension payable shall be determined from the table below and, in that table, “adult pension” means a short-term pension payable to the spouse or nominated beneficiary.

Category	Person falling within regulation E23 (2)	Duration of pension (months)
1.	Spouse or nominated beneficiary	3
2.	One child or more where an adult pension is payable	3
3.	One child or more where no adult pension is payable	6”

(b) paragraph (4) shall be omitted.

**16.** In regulation E31 —

(a) at the end of paragraph (4) there shall be inserted the words “and the first payment under this paragraph is to be made on the first date referred to in sub-paragraph (a) or (b) which falls at least one month after the person’s entitlement to benefit took effect”; and

(b) for paragraph (8)(a) there shall be substituted the following sub-paragraph —

“(a) where paragraph (6)(a) applies, the due date immediately following the date on which the person’s entitlement to benefit took effect, and”.

**17.** After regulation 31 there shall be inserted the following regulation —

**“Interest on late payment of certain benefits**

**E31A.**—(1) Where all or any part of the benefits payable under this Part other than a pension payable under regulation E23 is not paid within one month of the due date the Secretary of State shall pay to the person to whom the benefit is payable interest on the amount remaining unpaid calculated at the appropriate rate on a day to day basis from the due date to the date of payment, and compounded with three-monthly rests.

(2) For the purposes of paragraph (1) the due date, where a benefit consists of a single payment, is —

(a) the date on which the person becomes entitled to the benefit, where the benefit consists of a single payment other than a death grant referred to in paragraph (b); or

(b) the day after the date on which the Secretary of State has become satisfied that the grant may be paid under regulation E19 or E20, where the benefit is a death grant payable under either of those regulations.

(3) For the purposes of paragraph (1) the due date, in a case where a benefit does not consist of a single payment, is —

- (a) the material date referred to in regulation E31(8) in the case of the payment referred to in regulation E31(6); or
- (b) the date referred to in regulation E31(4) in relation to each payment in the case of any other monthly payment.

(4) For the purposes of paragraph (1) “the appropriate rate” is one per cent above the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence.

(5) In paragraph (4) “the reference banks” means the seven largest institutions for the time being which —

- (a) are authorised by the Bank of England under the Banking Act 1987<sup>(9)</sup>;
- (b) are incorporated in and carrying on within the United Kingdom a deposit-taking business (as defined in section 6, but subject to any order under section 7 of that Act); and
- (c) quote a base rate in sterling.”.

**18.** In regulation H1(4)<sup>(10)</sup> for the words “any of the provisions of the Education Acts 1944 to 1993 or any enactment made thereunder” there shall be substituted the words “any enactment”.

**19.** In Schedule 2 (pensionable employment) —

- (a) in paragraph 15 after the words “the Sports Council” there shall be inserted the words “the English Sports Council”;
- (b) in paragraph 20 after sub-paragraph (a) there shall be inserted the following sub-paragraph —
  - “(aa) the English Sports Council, or”, and in sub-paragraph (c)(i) for the word “either” there shall be substituted the word “any”.
- (c) in paragraph 26<sup>(11)</sup> the word “or” after “St. Julian’s School (Carcavelos, Portugal)” shall be omitted and at the end of that paragraph there shall be inserted the following —
  - “St George’s English School, Rome, (Italy);
  - St Catherine’s British Embassy School, Athens (Greece); or
  - The British Primary School, Tervuren, Belgium.”.

**20.** In Schedule 4 (additional contributions for past period)

- (a) in paragraph 5(1)(a) the words “full-time” shall be omitted;
- (b) in paragraph 5(2) for the words from “elect to complete payment” to the end of the sub-paragraph there shall be substituted the words “make an election in accordance with sub-paragraph (2A) or, as the case may be, (5A)”;
- (c) after paragraph 5(2) there shall be inserted the following sub-paragraphs —
  - “(2A) An election under this sub-paragraph may be made when the person has been in full-time pensionable employment throughout the contribution period;
  - (2B) An election under sub-paragraph (2A) is an election to complete the payment of additional contributions (so that regulation D3(1)(b) will apply instead of regulation D3 (2)) by making a lump sum payment the amount of which shall be determined in accordance with sub-paragraphs (3), (4) or (5) as the case may be.”;
- (d) After paragraph 5(5) there shall be inserted the following sub-paragraphs —

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<sup>(9)</sup> 1987 c. 22.

<sup>(10)</sup> Regulation H1(4) was inserted by S.I. 1994/1058.

<sup>(11)</sup> Paragraph 26 of Schedule 2 was inserted by S.I. 1993/114 and amended by S.I. 1994/1058.

“(5A) An election under this sub-paragraph may be made where the person has been in part-time pensionable employment at any time during the contribution period

(5B) An election under sub-paragraph (5A) may be —

- (a) an election to make a payment such that the person will be entitled to count as reckonable service the number of years which he would have been entitled to count if he had been in full-time pensionable employment throughout such of the contribution period as had elapsed before he ceased to be in pensionable employment and had paid additional contributions accordingly (so that regulation D3(2) and paragraph 1C of Schedule 7 will apply accordingly);
- (b) an election to complete payment of additional contributions as if he had been in full-time pensionable employment from the date on which he ceased to be in pensionable employment to the end of the contribution period (so that regulation D3(2) and paragraph 1D of Schedule 7 will apply accordingly); or
- (c) an election to complete payment of additional contributions as if he had been in full-time pensionable employment throughout the contribution period (so that regulation D3(1)(b) will apply instead of regulation D3(2));

in each case by making a lump sum payment.

(5C) Where the election is made under paragraph (a) of sub-paragraph (5B) the amount of the lump sum payment shall be such amount as would be payable under Part II of this Schedule in order to count as reckonable service the difference between the length of reckonable service arising from the additional contributions paid during such of the contribution period as had elapsed before the person ceased to be in pensionable employment and the length of such service if the person had been in full-time pensionable employment throughout that period and paid additional contributions accordingly.

(5D) Where an election is made under paragraph (b) of sub-paragraph (5B) the amount of the lump sum payment is one of the following amounts as appropriate —

- (a) the amount referred to in sub-paragraph (3) on the assumption that the person would have been in full-time pensionable employment for the remainder of the contribution period;
- (b) the amount referred to in sub-paragraph (4) on the assumption that the person would have been in full-time employment during such part of the contribution period as would have fallen after he attained the age of 60;
- (c) the amount referred to in sub-paragraph (5) modified (in a case where the person was employed part-time immediately before he ceased to be in pensionable employment) such that in place of the definition of E there is substituted the following definition —

“(E) is the amount of the additional contributions for one year at the rate at which they would have been last payable on the assumption that the person would have been in full-time pensionable employment”.

(5E) Where an election is made under paragraph (c) of sub-paragraph (5B) the amount of the lump sum payment is the aggregate of the amounts referred to in sub-paragraphs (5C) and (5D).

(5F) An election under sub-paragraph (5A) shall state whether it is an election under paragraph (a), under paragraph (b) or under paragraph (c) of sub-paragraph (5B).”;

(e) Part III shall be omitted.

21. In paragraph 6 of Schedule 5 (additional contributions for past period under earlier provisions) the words “Subject to sub-paragraph (2)” and sub-paragraph (2) shall be omitted.

22. In paragraph 11 of Schedule 6 (family benefits) —

(a) after sub-paragraph (1) there shall be inserted the following sub-paragraph —

“(1A) Where a woman’s pensionable employment is part-time the reference in sub-paragraph (1)(d) to the rate at which contributions are to be paid is a reference to the rate as a percentage of the woman’s full-time equivalent salary.”;

(b) sub-paragraph (7)(b) shall be omitted.

23. In Schedule 7 (uncompleted payment of additional contributions) —

(a) in paragraph 1(1)(a) the words “full-time” shall be omitted;

(b) in paragraph 1(3) for the words “C is so much of B” there shall be substituted the words “C is the period which the person is entitled to count as reckonable service (calculated, as appropriate, in accordance with the formula in regulation D1(2)) which arises from the additional contributions paid during so much of the contribution period”;

(c) in paragraph 1(5)(b)(iii) for the words “C is so much of the shortened contribution period” there shall be substituted the words “C is the period which the person is entitled to count as reckonable service (calculated, as appropriate in accordance with the formula in regulation D1(2)) which arises from the additional contributions paid during the shortened contribution period”;

(d) in paragraph 1A(1) the words “or Part III” shall be omitted;

(e) in paragraph 1A(2) for the words “C is so much of B” there shall be substituted the words “C is the period which the person is entitled to count as reckonable service (calculated, as appropriate, in accordance with the formula in regulation D1(2)) which arises from the additional contributions paid during so much of the contribution period”;

(f) after paragraph 1A there shall be inserted the following paragraphs —

“1B.—(1) This paragraph applies where a person has paid additional contributions for a past period in accordance with Part I of Schedule 4 for the whole of the period during which they were to be paid (“the contribution period”) and

(a) has been in part-time employment at some time during the contribution period; but

(b) has not made a lump sum payment under regulation D3(1B).

(2) In this paragraph A is the past period and B is the contribution period.

(3) The person is entitled to count as reckonable service —

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

where C is the period which the person is entitled to count as reckonable service (calculated in accordance with the formula in regulation D1(2)) which arises from the additional contributions paid during the contribution period.

1C.—(1) This paragraph applies where a person paying additional contributions for a past period in accordance with Part I of Schedule 4 —

(a) has been in part-time employment at some time during the period during which contributions were to be paid (“the contribution period”);

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- (b) ceases to be in pensionable employment before the end of the contribution period; and
  - (c) pays a lump sum under paragraph 5(5C) of Schedule 4.
- (2) In this paragraph A is the past period and B is the contribution period.
- (3) The person is entitled to count as reckonable service —

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

where C is so much of B as has elapsed when the pensionable employment ended.

**1D.**—(1) This paragraph applies where a person paying additional contributions for a past period in accordance with Part I of Schedule 4 —

- (a) has been in part-time employment at some time during the period during which contributions were to be paid (“the contribution period”);
  - (b) ceases to be in pensionable employment before the end of the contribution period; and
  - (c) pays a lump sum under paragraph 5(5D) of Schedule 4.
- (2) In this paragraph A is the past period and B is the contribution period.
- (3) The person entitled to count as reckonable service

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

where C is the aggregate of —

- (a) the period which the person is entitled to count as reckonable service (calculated in accordance with the formula in regulation D1(2)) which arises from the additional contributions paid during so much of the contribution period as had elapsed when the pensionable employment ended; and
  - (b) the period from the date when the pensionable employment ended to the end of the contribution period.”
- (g) in paragraph 2(2) in the definition of B there shall be added at the end the words —
- “and, in the case of a person in part-time pensionable employment, on the assumption that he had made an election under paragraph 5(5B)(c) of Schedule 4”.
- (h) paragraph 3 shall be omitted.

**24.** In Schedule 9 (periods making up qualifying period) after paragraph 24 there shall be inserted the following paragraph —

“**25.** A period of employment in comparable British service.”.

**25.** In Part III of Schedule 12 (transfer values; inward transfers) —

- (a) in paragraph 11(1) after the words “he is entitled” there shall be inserted the words “unless paragraph 11A applies”; and
- (b) after paragraph 11 there shall be inserted the following paragraph —

“**11A.**—(1) This paragraph applies where —

- (a) the condition specified in paragraph 11(1)(b) applies;

- (b) the person has made an election under regulation B7 (resumption of pensionable status);
- (c) the previous election under regulation B6 (election not to be pensionable) was made before 30th June 1994;
- (d) the person has been in excluded employment between the date of the election under regulation B6 and the date of the election under regulation B7;
- (e) a transfer value was paid under regulation F1 in respect of the person in consequence of him ceasing to be in pensionable employment by virtue of the election under regulation B6;
- (f) the person is an individual as is mentioned in section 172(1) of the Pensions Act 1995(12);
- (g) the Secretary of State accepts a transfer value under regulation F5 of the amount specified in sub-paragraph (3).

(2) In this paragraph “the period of original pensionable employment” means the period during which the person was in pensionable employment before he made his election under regulation B6.

(3) The amount referred to in sub-paragraph (1)(g) is A+B where —

A is the transfer value which, calculated on the basis specified in paragraph 11(2), would enable the person to count the period of excluded employment as reckonable service as if it had been pensionable employment; and

B is the greater of —

- (a) the transfer value paid under regulation F1 in respect of the person in consequence of his ceasing to be in pensionable employment by virtue of his election under regulation B6 together with —
  - (i) in a case where the transfer value is paid to the Secretary of State pursuant to regulation F5 within four weeks of the request under regulation F5(2) an amount, determined actuarially, which represents the income which would have been received had such sum been invested during the period starting at the end of the month in which the transfer value was paid under regulation F1 and ending at the end of the month in which the request under regulation F5(2) was made; and
  - (ii) in any other case, the amount referred to in paragraph (i) above together with a further amount, determined actuarially, which represents the income which would have been received compounded with monthly rests, had such sum been invested during the period starting at the end of the month in which the request under regulation F5(2) was made and ending at the end of the month in which the transfer value is paid to the Secretary of State; and
- (b) the amount which would be paid as a transfer value under regulation F1 in respect of the person if at the date on which he made the election under regulation B7 —
  - (i) he was in pensionable employment and made an election under regulation B6; and
  - (ii) he had been in pensionable employment for a period equal to the period of original pensionable employment.

- (4) Where this paragraph applies the person is entitled to count as reckonable service —
- (a) the reckonable service arising from the period of original pensionable employment; and
  - (b) such service arising from the period of excluded employment as if it had been pensionable employment.”.

### **Transitional provisions**

**26.**—(1) Where for the purposes of regulation E29 the material part of a person’s average salary service comprises a period before 1st October 1996, regulation C1 of the principal Regulations shall apply for the purposes of determining the contributable salary for that period without the amendments made by regulation 4(a) above.

(2) The amendment to regulation C1(7)(a) of the principal Regulations made by regulation 4(b) above shall not apply in relation to any election made before 1st October 1996.

(3) (a) The amendments to regulations C16(1)(b), D3(1)(b) and D3(2) of the principal Regulations made by regulations 9, 10(a)(ii) and 10(c) above and the amendment to paragraph 1A of Schedule 7 to the principal Regulations made by regulation 23(d) above shall not apply in relation to a person who has elected to pay additional contributions in accordance with Part III of Schedule 4 (“Method C”) before 1st October 1996; and

(b) Part III of Schedule 4 and paragraph 3 of Schedule 7 to the principal Regulations shall (notwithstanding regulations 20(e) and 23(h) above) continue to apply in relation to such persons.

(4) Notwithstanding the amendments to regulations E19(7) and E20(6) of the principal Regulations made by regulation 13 above, where before 1st October 1996 the deceased had nominated a person other than an individual the death grant or supplementary death grant shall be paid under regulations E19(7) or E20(6) to the person nominated.

(5) The amendments to regulations E23 and E24 of the principal Regulations made by regulations 14 and 15 above respectively shall not apply in relation to benefits payable in respect of a person who died before 1st October 1996.

(6) Any person who —

- (a) before 1st September 1996 was in pensionable employment as an organiser employed by the Sports Council; and
- (b) on or after 1st September 1996 became employed as an organiser by the English Sports Council,

shall be treated as having elected under regulation B1(2) of the principal Regulations that his employment with the English Sports Council should be pensionable.

### **Elections in respect of protected benefits**

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

- (a) to whom a protected benefit is being paid or may become payable, and
- (b) who is placed in a worse position than he would have been in if a provision made by these Regulations (“the relevant provision”) had not applied in relation to the protected benefit.

(2) A protected benefit is one which is being paid or may become payable, under the principal Regulations, to or in respect of a person who was employed in pensionable employment but ceased to be employed, or died, before 1st October 1996.

(3) A person to whom this regulation applies may, by giving written notice to the Secretary of State before 1st January 1997, elect that the relevant provision shall not apply in relation to the protected benefit.

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

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

(i) of periods of reckonable service before the cessation referred to in paragraph 2 (or, if there had been more than one cessation, the last of them before 1st October 1996); or

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

(b) in determining entitlement to, or to the amount of, the benefit to that extent he shall be treated as if he had never re-entered pensionable employment again at any time after the cessation referred to in paragraph (2) (but without prejudice to the application of this paragraph);

and the principal Regulations shall apply accordingly.

22nd August 1996

*Eric Forth*  
Minister of State,  
Department for Education and Employment

We consent,

29th August 1996

*Roger Knapman*  
*Bowen Wells*  
Two of the Lords Commissioners of Her  
Majesty's Treasury.

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## EXPLANATORY NOTE

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

These Regulations further amend the Teachers' Superannuation (Consolidation) Regulations 1988 (the principal Regulations).

Regulation 3 amends regulation B4(2)(a) of the principal Regulations so that a person may be in pensionable employment even if his salary is related to an accepted school's profit or performance.

Regulation 4 amends regulation C1 of the principal Regulations so as to provide a new definition of contributable salary, and to change the election provisions where contributable salary has been reduced.

Regulation 5 amends regulation C3 of the principal Regulations so as to —

- (a) enable employers to make additional contributions by Method B in respect of their employees;
- (b) remove the option to pay additional contributions by Method C; and
- (c) allow part-time employees to pay additional contributions by Method A.

Regulations 9, 10, 20 and 23 make amendments to regulations C16 and D3 of, and Schedules 4 and 7 to, the principal Regulations consequential on the amendments made by regulation 5. The amendments to Schedules 4 and 7 make provision for a person who has elected to pay additional contributions by Method A, or who has spent any part of the contribution period in part-time employment, to be able to discharge the election in full or in part if he leaves pensionable employment.

Regulation 6 amends the definition of “notional salary” in regulation C8 of the principal Regulations.

Regulation 7 amends regulation C10 of the principal Regulations so as to provide that a person who has elected that his employment should not be pensionable is entitled to a refund of contributions if he is not qualified for retirement benefits.

Regulation 8 amends regulation C14 of the principal Regulations so as to provide that a person must return refunded contributions within 10 weeks of electing to do so, but he no longer has to be in pensionable employment on the day the payment is made. Regulation 8 also amends provisions relating to the return of repaid contributions by instalments.

Regulation 11 amends regulation E4(7) of the principal Regulations to provide that a person can be eligible for premature retirement benefits under regulation E4(7) even if at the time his employment is terminated it is part-time employment and he has not elected that it should be pensionable. Regulation 11 also amends provisions governing the date from which infirmity benefits are payable when, at the time he became incapacitated the teacher was in excluded employment or was in part-time employment and had not elected that the employment should be pensionable.

Regulation 12 makes a new provision for commutation of an infirmity pension where there are exceptional circumstances of serious ill health.

Regulation 13 provides that a “person” (an expression which would otherwise include a body of persons) nominated to receive a death grant must be an individual.

Regulations 14 and 15 amend the provisions of regulations E23 and E24 of the principal Regulations relating to the payment of short-term family benefits when the deceased person is survived by a child or children.

Regulations 16 and 17 make provision for interest to be payable on late payment of most benefits.

Regulation 18 amends regulation H1 of the principal Regulations which make special provision for a person who is employed by the same employer at a reduced rate of contributable salary in a different post. An employer will be the same employer if it is a statutory corporation which has become the new employer by virtue of any enactment (not only by virtue of any provision of the Education Acts).

Regulation 19 makes changes to the list of employments specified in Schedule 2 to the principal Regulations.

Regulation 21 amends Schedule 5 to the principal Regulations to enable a person to continue paying additional contributions under the Teachers' Superannuation Regulations 1976 whilst also paying additional contributions under regulation C3 of the principal Regulations.

Regulation 22 amends Schedule 6 to the principal Regulations to enable a woman employed part-time to pay family benefit contributions by instalments.

Regulation 24 provides that a period of employment in comparable British service is "qualifying employment" under Schedule 9 to the principal Regulations.

Regulation 25 amends Part III of Schedule 12 to the principal Regulations to make special provision for inward transfers in cases where a person elected that his employment should not be pensionable before 30th June 1994, subsequently elected to resume pensionable status and the circumstances are such that the Secretary of State is entitled to impose a fee in respect of his resumption of pensionable status.

Regulation 26 makes provision for transitional provisions and regulation 27 makes provision for opting out where rights in relation to ex-employees are adversely affected by these amendments.