STATUTORY INSTRUMENTS

1997 No. 3001

The Teachers' Pensions Regulations 1997

PART G

FINANCE

Teachers' Pension Account

G1. An account substantially in the form set out in Schedule 13 is to be prepared by the Secretary of State for every financial year starting with the financial year ending with 31st March 1998.

Receipts etc. to be credited

G2.—(1) Employees' and employers' contributions received during the financial year are to be credited to the account.

(2) Employees' contributions comprise—

(a) all contributions payable under regulations C3(1) and (3), C4, C5, C6, C8, C11 and paragraph 36 of Schedule 10,

(b) so much of the contributions payable by services education officers under regulation C3(2) as falls within regulation C3(2)(a),

(c) so much of any additional contributions payable under regulation C9 and C10 as would have been payable under regulation C3(1) if pensionable employments had continued, and

(d) all amounts payable under regulations C16 and C17 (return of repaid contributions).

(3) Employers' contributions comprise—

(a) the contributions payable under regulations G5, G6 and G8,

(b) so much of the contributions payable by services education officers under regulation C3(2) as falls within regulation C3(2)(b), and

(c) so much of any additional contributions payable under regulation C9 and C10 as would have been payable under regulation G5 if pensionable employments had continued.

(4) There are also to be credited to the account—

(a) the closing balance in the account for the preceding financial year,

(b) all transfer values accepted under regulation F4 and additional transfer values under regulation D6 of the 1988 regulations (which continues to have effect by virtue of paragraph 12 of Schedule 15 despite the revocation of the 1988 Regulations) received during the financial year,

(c) all contributions equivalent premiums refunded, or recovered under section 61 of the 1993 Act, during the financial year,

(d) any interest and other payments under these Regulations received during the financial year, and

(e) the notional investment income for the financial year on the balance in the account.

(5) For the purposes of paragraph (4)(e), the notional investment income is an amount determined by the Government Actuary and derived by multiplying the balance on the account from time to time by the estimated percentage return (calculated over such period as the Government Actuary determines) on the total invested assets of relevant pension funds in the United Kingdom; and "relevant pension funds" means pension funds in excess of £1,000 million or such other sum as the Secretary of State may from time to time determine: provided that, in determining such an amount, the Government Actuary shall have regard to such information relating to such return on such assets as may be available to him from any organisation in the United Kingdom, designated by the Secretary of State, which compiles and publishes statistics relating to the assets of such funds.

Payments to be debited

G3. There are to be debited to the account all sums paid during the financial year by way of—

(a) benefits under Part E, so far as not attributable to service before 1st June 1922,

(b) payments under paragraph 12 of Schedule 10 (equivalent pension benefits),

(c) repayment of contributions (including interest) under regulations C12 and C14,

(d) transfer values under regulation F1, additional transfer values under regulation F2 of the 1988 Regulations (war service) (which continues to have effect by virtue of paragraph 17 of Schedule 15 despite the revocation of the 1988 Regulations) and transfer values under Chapter IV of Part IV of the 1993 Act.

(e) contributions equivalent premiums, and

(f) increases payable under the Pensions (Increase) Act 1971(**1**).

Actuarial inquiries

G4. The Government Actuary shall make an actuarial inquiry reporting on the position in relation to the account as at the end of the financial year ending with 31st March 2001 and at the end of every fifth subsequent financial year ("the financial year in question").

(2) The Government Actuary shall make a report on the inquiry to the Secretary of State as soon as practicable after the end of the financial year in question and the Secretary of State shall lay the report before each House of Parliament.

(3) The report is to specify the percentage of the contributable salaries of persons entering pensionable employment on the first day of the next financial year at which contributions should be paid, during the period beginning on 1st April next following the date of the report and ending with 31st March next following the date of the next report ("the relevant period"), so as to defray the cost of the payments of the kinds described in regulation G3(a) to (f) that are likely to be made in respect of them.

(4) The report is to state the amount by which, at the end of the financial year in question, the amount of the scheme assets exceeded or fell short of that of the scheme liabilities.

(5) The scheme assets are—

(a) the value of the employees' contributions receivable after the end of the financial year in respect of persons who at the end of that year were or had been in pensionable employment,

(b) the value of employers' contributions in respect of such persons receivable after the end of the financial year, except any such supplementary contributions as are mentioned in paragraph (7),

(c) the value of payments that would fall to be credited under regulation G2(4)(d) and (e) to the accounts for subsequent financial years, and

(**1**) 1971 c. 56.

(d) the actuarial value at the end of the financial year in question of the balance in the account.

(6) The scheme liabilities are the payments to be made under these Regulations and in respect of pension increases under the Pensions (Increase) Act 1971 after the end of the financial year in question in respect of persons who at the end of that year were or had been in pensionable employment, except payments attributable to service before 1st June 1922.

(7) If the report states that the amount of the scheme liabilities exceeded that of the scheme assets, it is to specify a rate (expressed as a percentage) at which, during the relevant period, supplementary contributions should be paid by employers of persons in pensionable employment so as to remove the deficiency within the period of 15 years beginning on 1st April following the date of the report.

(8) If the report states that the amount of the scheme assets exceeded that of the scheme liabilities, it is to specify a rate (expressed as a percentage) at which, during the relevant period, the employers of persons in pensionable employment should receive a contribution rebate so as to remove the surplus within the period of 15 years beginning on 1st April following the date of the report.

(9) The rate referred to in paragraphs (7) and (8) is to be expressed as a percentage of the contributable salaries from time to time of persons in pensionable employment; the percentage must either be or be a multiple of 0.05.

(10) In this regulation "employees' contributions" and "employers' contributions" are to be construed in accordance with regulation G2(2) and (3) respectively.

Employers' contributions

G5.—(1) Subject to paragraph (3), the employer of a person in pensionable employment, other than a services education officer, is during every relevant period to pay contributions of the required percentage of his contributable salary for the time being.

(2) The required percentage for every relevant period beginning with the relevant period starting on the 1st April next following the date of the first report made under regulation G4, is

$$(A - 6) + B - C$$

or, if the result would be less than zero, zero, where—

A is the percentage specified for the relevant period under regulation G4(3),

B is any percentage specified for the relevant period under regulation G4(7) and (9); and

C is any percentage specified for the relevant period under regulation G4(8) and (9).

(3) Paragraph 9 of Schedule 15 has effect for the purpose of determining the required percentage for relevant periods before that referred to in paragraph (2) above.

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

(5) For the purposes of this regulation—

(a) a local education authority is deemed to be the employer of every person employed in or in connection with a school maintained by it, other than of a person who is in the employment of an employment business, and

(b) "relevant period" is to be construed in accordance with regulation G4(3).

(6) In this regulation "employment business" has the meaning assigned to it by section 13(3) of the Employment Agencies Act 1973(**2**).

(**2**) 1973 c. 35.

Employers' contributions—employees' elections under regulation C2

G6.—(1) In this regulation "employer A", "employer B" and "employer C" have the same meaning as in regulation C2(1)(b) and (6)(c).

(2) Where a person who falls within regulation C2(1)(a) has made an election under regulation C2(1) the person's employer may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by that employer.

(3) Where a person who falls within regulation C2(1)(b) has made an election under regulation C2(1) either employer A or employer B may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by employer A or employer B as the case may be.

(4) Where a person who has made an election under regulation C2(1) ceases to be in pensionable employment in circumstances where—

(a) his election continues to have effect by virtue of regulation C2(6)(c)(ii), and

(b) an election has been made under paragraph (2), or under paragraph (3) by employer B, but

(c) the employer who made the election does not confirm it under paragraph (7)(a)(ii),

employer C may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by employer C.

(5) In paragraphs (2) and (3) "the contribution deficit" means contributions of the required percentage of the difference between the person's actual contributable salary and his contributable salary at the rate referred to in regulation C2(4).

(6) An election for the purposes of paragraphs (2), (3) or (4)—

(a) must be made by giving written notice to the Secretary of State,

(b) has effect—

(i) in the case of an election under paragraph (2) or (3), from the date on which the employee's election under regulation C2(1) has effect, or from the end of the month in which the election was made whichever is the later, and

(ii) in the case of an election under paragraph (4), from the date on which the person takes up employment with employer C or from the end of the month in which the election was made whichever is the later, and

(c) shall state whether the employer elects to pay the whole of the contribution deficit or a proportion of it and if so what that proportion is, and

(d) is irrevocable.

(7) An election made under paragraph (2), under paragraph (3) by employer B or under paragraph (4) ceases to have effect—

(a) in the case of an election under paragraph (2) or (3), if the person ceases to be employed by the employer who made the election unless—

(i) the person elects to pay additional contributions under regulation C10, or

(ii) by virtue of regulation C2(6)(c)(ii) the person's election does not cease to have effect and the employer confirms the election before the date on which the person takes up employment with the new employer, and

(b) in the case of an election under paragraph (4) if the person ceases to be employed by the person who made the election unless he elects to pay additional contributions under regulation C10.

(8) An election made under paragraph (3) by employer A ceases to have effect if the person ceases to be in pensionable employment unless he—

(a) elects to pay additional contributions under regulation C10, or

(b) takes up pensionable employment with another employer within 6 months of ceasing to be in pensionable employment.

(9) Where, in relation to a person who falls within regulation C2(1)(b)—

(a) there are at any time elections by both employer A and employer B, or as the case may be both employer A and employer C; and

(b) if both elections were fully effective their combined effect would be that more than the contribution deficit would be paid to the Secretary of State,

the election by employer B or as the case may be, employer C shall have full effect but the election by employer A shall have effect only to the extent of the difference (if any) between the contribution deficit and the amount which is the subject of the election by employer B or employer C.

Payment by employers to Secretary of State

G7.—(1) The employer of a person in pensionable employment is to pay to the Secretary of State, within 7 days after the end of each month—

(a) all amounts due from the person that are deductible from his salary under regulation C18(1),

(b) the contributions payable under regulation G5, and

(c) the contributions payable in pursuance of an election under regulation G6,

in respect of his contributable salary for that month.

(2) The former employer of a person in pensionable employment who has made an election under regulation G6(3) (referred to in regulations C2(1)(6) and G6 as “employer A”) is to pay to the Secretary of State within 7 days after the end of each month the contributions in pursuance of the election.

(3) For the purposes of paragraph (1)—

(a) all salaries are to be treated as being payable monthly in arrears, and

(b) any arrears payable by reason of a retrospective increase in contributable salary are to be treated as having become payable in the month in which they were paid.

(4) If the full amount of any payment required by paragraph (1) or (2) is not received by the Secretary of State within 7 days after the end of the month, interest is payable by the employer or the former employer on the amount outstanding at 12% per annum, compounded with monthly rests, from the 8th day to the date of payment; but the Secretary of State may in any particular case waive the payment of interest.

Employers' additional contributions

G8.—(1) Where an employer has elected under regulation C4(3) to pay additional contributions in respect of a person, payment to the Secretary of State of the lump sum referred to in paragraph 13(1) of Schedule 4 shall be made within the period referred to in paragraph 13(2) of that Schedule.

(2) Where a person receives an increase in contributable salary as is mentioned in regulation E31(11), the person’s last employer before he became entitled to payment of retirement benefits (“the former employer”) may make an election under paragraph (3).

(3) An election under this paragraph is an election to pay an additional contribution of

$$A - B - C$$

where—

A is the actuarial value of the retirement benefits to which the person would be entitled calculated by reference to the salary he received, B is the actuarial value of the retirement benefits to which the person would be entitled if he was treated as receiving the increase in his contributable salary referred to in regulation E31(11), and

C is the aggregate of contributions which would be repaid under regulation H6 if no election had been made.

(4) An election under paragraph (3) may be made by giving written notice to the Secretary of State no later than six weeks after the date on which the person became entitled to payment of retirement benefits.

(5) Where an election is made under paragraph (3) the payment to the Secretary of State under the election shall be made within 14 days after the date of the election.

(6) If the full amount of payment under the election under paragraph (3) is not received by the end of the period referred to in paragraph (5), interest is payable by the former employer on the amount outstanding at 12% per annum compounded with monthly rests from the day after the end of the period referred to in paragraph (5) to the date of payment.