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STATUTORY INSTRUMENTS

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**1997 No. 311**

**EDUCATION, ENGLAND AND WALES**

**The Teachers (Compensation for Redundancy  
and Premature Retirement) Regulations 1997**

<i>Made</i>	- - - -	<i>19th February 1997</i>
<i>Laid before Parliament</i>		<i>19th February 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State for Education and Employment, in exercise of the powers conferred by section 24 of, and paragraphs 9 and 13 of Schedule 3 to, the Superannuation Act 1972<sup>(1)</sup>, with the consent of the Treasury<sup>(2)</sup>, hereby makes the following Regulations:

**PART I**  
**GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 and shall come into force on 1st April 1997.

**Interpretation**

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

- (a) any reference to a numbered regulation, Part or Schedule is to be construed as a reference to the regulation, Part or Schedule which bears that number in these Regulations and any reference to a numbered paragraph in a regulation of or 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 that 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 or the 1989 Regulations has or had

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(1) 1972 c. 11.  
(2) See S.I. 1981/1670.

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

- (c) any expression for which there is an entry in the first column of Schedule 1 to the Superannuation Regulations, including such an entry added or amended after the making of these 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—

“the 1971 Act” means the Pensions (Increase) Act 1971(3);

“the 1988 Act” means the Education Reform Act 1988(4);

“the 1996 Act” means the Education Act 1996(5);

“the 1985 Regulations” means the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1985(6);

“the 1989 Regulations” means the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1989(7);

“the Superannuation Regulations” means the Teachers’ Superannuation (Consolidation) Regulations 1988(8);

“annual compensation” without further qualification means annual compensation payable under regulation 7, regulation 12 or both;

“appropriate person” means—

- (a) in the case of a person employed at an aided school within the meaning of section 32 of the 1996 Act, the local education authority, and

- (b) in the case of any other employee, the person by whom he was employed;

“assumed retirement lump sum” and “assumed retirement pension” are to be construed in accordance with regulation 12(5);

“compensating authority” is to be construed in accordance with regulation 22;

“compensation” without further qualification means compensation payable under these Regulations;

“credited teacher” means an eligible teacher who has been credited with a period of service under regulation 11, and “credited period” means the period with which he has been credited;

“effective service” is to be construed in accordance with regulation 11(2);

“eligible teacher” is to be construed in accordance with regulation 4(6);

“former employment” in relation to an eligible teacher or a credited teacher, means relevant employment in relation to which the conditions in regulation 4(7) are satisfied, and “former employer” means the person who employed him in that employment;

“lump sum compensation” without further qualification means lump sum compensation payable under regulation 7, regulation 12 or both;

“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 20(2);

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(3) 1971 c. 56.

(4) 1988 c. 40.

(5) 1996 c. 56.

(6) S.I. 1985/1181.

(7) S.I. 1989/298; amended by S.I. 1994/1059 and 1996/2777.

(8) S.I. 1988/1652; the relevant amending instruments are S.I. 1989/378, 1989/811, 1993/114, 1994/1058, 1995/2004, 1996/2296, 1997/312.

“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<sup>(9)</sup> or under Part XI of the Employment Rights Act 1996<sup>(10)</sup>,
- (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<sup>(11)</sup> 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;

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

“a week’s pay” shall be calculated in accordance with Chapter II of Part XIV of the Employment Rights Act 1996 but, for the purposes of these Regulations, the calculation date shall be the date that the person in question ceased to hold the relevant employment in question and that Chapter shall be applied as if section 227(1)(c) has been repealed.

(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 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<sup>(12)</sup>.

(3) In any other case, subject to paragraphs (4) to (6), relevant employment is employment falling within paragraph 1, 3, 3A, 5, 5A or 25 of Schedule 2 to the Superannuation Regulations<sup>(13)</sup>.

(4) An employment falling within paragraph 3 of that Schedule is relevant employment only if it is at a grant-maintained school.

(5) An employment falling within paragraph 5 or 5A of that Schedule is relevant employment only if it is at an institution which is—

- (a) maintained by a local education authority;
- (b) within the further education sector as defined in section 91(3) of the Further and Higher Education Act 1992<sup>(14)</sup>;
- (c) a higher education corporation established under section 121 or 122 of the 1988 Act or in respect of which an order has been made under section 122A<sup>(15)</sup> of that Act; or
- (d) designated under section 129 of the 1988 Act.

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<sup>(9)</sup> 1965 c. 62.

<sup>(10)</sup> 1996 c. 18.

<sup>(11)</sup> S.I. 1983/1160.

<sup>(12)</sup> S.I. 1988/816.

<sup>(13)</sup> Paragraphs 3A and 5A were inserted in the Superannuation Regulations by S.I. 1994/1058 and 1993/114 respectively.

<sup>(14)</sup> 1992 c. 13.

<sup>(15)</sup> Inserted by the Further and Higher Education Act 1992 c. 13, section 74(1).

(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) 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 as defined in section 139(5)(b) of the 1988 Act (institutions of further and higher education) or section 115(b) of the 1996 Act (schools),
- (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 grant-maintained school or grant-maintained special school,
- (d) category D comprises relevant employment at an institution within the higher education sector, as defined in section 91(5) of the Further and Higher Education Act 1992, in receipt of financial support under section 65 of that Act, and
- (e) category E comprises relevant employment at an institution within the further education sector as defined in section 91(3) of the Further and Higher Education Act 1992.

#### **Persons to whom the Regulations apply**

4.—(1) Part II applies to any person who has become entitled to a redundancy payment under Part XI of the Employment Rights Act 1996 in consequence of his having ceased to be employed in relevant employment.

(2) Part III applies to any person who has ceased on or after 1st April 1997 to be employed in relevant employment by reason of his redundancy or in the interests of the efficient discharge of his employer's functions, and who is not entitled to payment of retirement benefits under regulation E4(2) to (7)(16) of the Superannuation Regulations.

(3) Part IV applies as stated in the regulations in that Part.

(4) Parts V and VI apply to eligible teachers.

(5) Part VII applies to eligible teachers and persons to whom Part IV applies.

(6) An eligible teacher is a person—

- (a) who immediately before the material date was employed in relevant employment,
- (b) who has not received or is not to receive compensation under Part III (discretionary compensation for termination), and
- (c) in relation to whom the conditions in paragraph (7) are satisfied.

(7) 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,
- (b) (i) he then had completed a qualifying period, within the meaning of regulation E3 of the Superannuation Regulations, of at least 5 years, or

- (ii) in the case of a person who was in full-time employment, he would have completed such a qualifying period if he had not made an election under regulation B6 of the Superannuation Regulations, or
- (iii) in the case of a person who was in part-time employment, he would have completed such a qualifying period if he had made an election under regulation B1(4) of the Superannuation Regulations<sup>(17)</sup>,
- (c) he did not become entitled to payment of retirement benefits under Case E in 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<sup>(18)</sup> (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—
  - (i) the employment was terminated by reason of his redundancy or in the interests of the efficient discharge of the employer’s functions, and
  - (ii) in the case of a person who has not attained the age of 60 the employer has agreed that he should be entitled to retirement benefits under Case F in regulation E4(7) of the Superannuation Regulations (premature retirement)<sup>(19)</sup>.
- (8) 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 (7)(e).

## PART II

### **Discretionary compensation for redundancy**

5. Subject always to section 139(1) to (4) of the 1996 Act (determination by governing bodies as to making by local education authorities of certain payments in respect of dismissal, etc.), the appropriate person may pay to a person to whom this Part applies compensation which does not exceed the difference between—

- (a) the redundancy payment to which he is entitled under Part XI of the Employment Rights Act 1996, and
- (b) the redundancy payment to which he would have been so entitled if section 227(1)(c) of the Employment Rights Act 1996 (weekly pay in excess of specified limit to be disregarded in calculating redundancy payments) had been repealed.

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<sup>(17)</sup> Regulation B1(4) was substituted by [S.I. 1995/2004](#).

<sup>(18)</sup> [S.I. 1975/1092](#), amended by [S.I. 1981/1088](#).

<sup>(19)</sup> Regulation E4(7) was substituted by [S.I. 1997/312](#).

## PART III

### Discretionary compensation for termination

6.—(1) Subject always to section 139(1) to (4) of the 1996 Act (determination by governing bodies as to making by local education authorities of certain payments in respect of dismissal, etc.), the appropriate person may pay to a person to whom this Part applies compensation which does not exceed

**A – B.**

where—

A is the lesser of—

- (a) a sum equivalent to 66 weeks' pay; and
- (b) the aggregate of—
  - (i) a sum equivalent to 2 weeks' pay for each complete year of qualifying employment after the attainment of 18 years of age; and
  - (ii) a sum equivalent to 3 weeks' pay for each complete year of qualifying employment after the attainment of 41 years of age; and

B is the aggregate of—

- (a) any redundancy payment to which he is entitled under Part XI of the Employment Rights Act 1996; and
- (b) any compensation which is paid to him under Part II of these Regulations (discretionary compensation for redundancy).

(2) In this regulation—

“qualifying employment” in relation to a person to whom this Part applies means a period of employment with an employer in relation to which the appropriate person is satisfied that the employee—

- (a) was in local government employment within the meaning of the Local Government Pension Scheme Regulations 1995 (“the 1995 Regulations”)(**20**) or would have been treated as being in local government employment but for a relevant disqualification; or
- (b) was in pensionable employment within the meaning of the Superannuation Regulations or was in employment which would have been pensionable employment but for a relevant disqualification; or
- (c) was in pensionable employment within the meaning of the National Health Service Pension Scheme Regulations 1995(**21**) or was in employment which would have been pensionable employment but for a relevant disqualification,

but excludes—

- (d) periods of employment in an independent school; and
- (e) any period in relation to which a pension or other benefits (other than a refund of contributions) under the qualifying scheme are being or have been paid;

“qualifying scheme” means an occupational pension scheme under which qualifying employment accrues or is deemed to accrue;

“relevant disqualification” means—

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(20) S.I. 1995/1019, amended by S.I. 1995/1985, 2249, 2953, 1996/185.

(21) S.I. 1995/300.

- (a) the failure of any medical examination required for membership of the qualifying scheme in question;
- (b) the requirement that a manual worker should have completed any period of continuous employment before he may become a member of the Scheme;
- (c) the making of any election to opt out of or the absence of an election to opt into membership of the qualifying scheme in question with respect to any period;
- (d) any restriction on part-time employment being pensionable employment;
- (e) the fact that, where the employment is part-time, the person has not elected that it should be pensionable; or
- (f) the fact that a person is not eligible to be a member of the Scheme under regulation B2(2) of the 1995 Regulations,

in consequence of one or more of which (either individually or cumulatively) that person has not become or has ceased to be or has not been treated as being eligible for the qualifying scheme in question;

“the Scheme” has the same meaning as in the 1995 Regulations.

## PART IV

### MANDATORY COMPENSATION FOR PREMATURE RETIREMENT

#### **Mandatory compensation**

7.—(1) A person who is entitled to retirement benefits under Case F in regulation E4(7)(22) of the Superannuation Regulations (premature retirement) and to whom regulations E5(5) and E6(3) of those Regulations apply (actuarial reductions on premature retirement) is entitled to lump sum compensation and to annual compensation under this regulation.

(2) The amount of the lump sum compensation under this regulation is the amount, if any, calculated in accordance with regulation E6(3)(23) of the Superannuation Regulations by which his retirement lump sum or additional retirement lump sum under regulation E15(4) of those Regulations (as the case may be) is reduced.

(3) Subject to paragraph (4) the rate of the annual compensation under this regulation is the difference between the rate of his retirement pension or additional retirement pension under regulation E15(4) of the Superannuation Regulations (as the case may be) if calculated in accordance with regulation E5(5)(24) of those Regulations and the rate if it is not.

(4) When a person in receipt of annual compensation under this regulation attains state pensionable age and the annual rate of his retirement pension under the Superannuation Regulations is increased by virtue of the operation of regulation E1 or E5(3) of those Regulations (guaranteed minimum pension) then from the date that he attained state pensionable age his annual compensation under this regulation shall be reduced by the difference between the annual rate of his retirement pension as calculated with the operation of regulation E1 or E5(3) of the Superannuation Regulations and the annual rate as calculated without.

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(22) Regulation E4(7) was substituted by S.I. 1997/312.

(23) Regulation E6(3) was added by S.I. 1997/312.

(24) Regulation E5(5) was added by S.I. 1997/312.

### **Abatement of annual compensation during further employment**

**8.**—(1) This regulation applies where the annual rate of a person’s retirement pension is reduced under regulation E14(25) of the Superannuation Regulations.

(2) Where this regulation applies the rate of the annual compensation under regulation 7 shall be reduced—

- (a) where the annual rate of the retirement pension is reduced to zero, to zero; and
- (b) in any other case, by the amount calculated under regulation E14(3)(b) of the Superannuation Regulations less the amount calculated under paragraph (4) of that regulation(26).

### **Supplementary death grants**

**9.** Where regulation E20(4A)(27) of the Superannuation Regulations applies a supplementary death grant may be paid by the compensating authority to the person entitled under that regulation equal to the deficiency referred to in that regulation less the amount of supplementary death grant that may be paid under that regulation.

### **Entitlement to short-term family benefits**

**10.**—(1) This regulation applies where the amount of a person’s short-term pension under regulation E23 of the Superannuation Regulations is reduced by virtue of regulation E24(4) of those Regulations(28).

(2) Where this regulation applies the person to whom the short-term pension is payable under regulation E23 is entitled to compensation, for each month during which the short-term compensation is payable, which is equal to the amount by which the short-term pension is reduced for that month.

## **PART V**

### **DISCRETIONARY COMPENSATION FOR PREMATURE RETIREMENT**

#### **Discretion to credit an additional period of service**

**11.**—(1) The deciding authority, ascertained from the first and second columns of the table in Part I of Schedule 1, may, within 6 months after the material date, credit an eligible teacher (including an eligible teacher who has since died) with a period of service not exceeding the shortest of—

- (a) the period by which his effective service falls short of 40 years,
  - (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 Schedule 1 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

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(25) Regulation E14 was amended by [S.I. 1997/312](#).

(26) Regulation E14(4) was added by [S.I. 1997/312](#).

(27) Regulation E20(4A) was added by [S.I. 1997/312](#).

(28) Regulation E24(4) was added by [S.I. 1997/312](#).



- (b) if his former employment was not pensionable employment, any period which he would have been entitled so to count if it had been.

### **Compensation payable to credited teacher**

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

(2) Subject to regulations 17 (redundancy payments) and 18 (termination payments), 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 17 and 19 to 21, 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,
- (b) the credited period counts as reckonable service after 30th September 1956, and
- (c) any actuarial reduction required by regulation E5(5) or E6(3) of the Superannuation Regulations is disregarded.

(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 disregarding any actuarial reduction required by regulation E5(5) or E6(3) of the Superannuation Regulations, and
- (b) in any other case, those to which he would have been entitled if all his effective service had counted as reckonable service disregarding any actuarial reduction required by regulation E5(5) or E6(3) of the Superannuation Regulations.

(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 under this regulation would exceed the relevant amount defined in paragraph (8),

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

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

- (a) the annual rate at any time of the annual compensation under this regulation 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 or annual compensation payable under regulation 7, 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**

**13.**—(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 24 of the rate of his annual compensation payable under regulation 12, 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 payable under regulation 12 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 payable under regulation 12 must not be higher than the ratio that the part of the retirement pension allocated had to the annual rate of the retirement pension disregarding any actuarial reduction required by regulation E5(5) of the Superannuation Regulations.

(4) For the purposes of paragraph (3) any reduction under Part VI of the annual compensation payable under regulation 12 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(29) 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 (premature retirement).

(6) The modifications include the substitution—

- (a) for references to a retirement pension (including references to such pension calculated disregarding any actuarial reduction required by regulation E5(5) of the Superannuation Regulations) of references to annual compensation payable under regulation 12,
- (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**

**14.**—(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 16 (duration), where this regulation applies short-term compensation shall 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 19 (periodic payments), the rate of the short-term compensation is the rate at which the deceased's annual compensation payable under regulation 12 would have been payable immediately before his death if any reduction under regulation 18, 20 or 21(3) 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 15, the rate of the short-term compensation is the same as that of the long-term compensation.

#### **Long-term compensation on death**

**15.**—(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 16 (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 19 (periodic payments), 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 19, 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 under regulation 12 immediately before his death if there had been left out of account any allocation under regulation 13 and any reduction under regulation 17(4)(b), 18, 20 or 21(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**

**16.**—(1) Subject to paragraphs (2) and (5), a person's short-term compensation under regulation 14 is payable from the day after that of the death, and the duration of the short-term compensation payable shall be ascertained from the table below.

**TABLE**

<i>Category</i>	<i>Person entitled to short-term compensation</i>	<i>Duration of compensation (months)</i>
1.	Spouse or nominated beneficiary	3
2.	One child or more where adult compensation is payable	3
3.	One child or more where no adult compensation is payable	6

In the table above "adult compensation" means short-term compensation payable to a spouse or nominated beneficiary.

(2) Where a person died before 1st December 1996, the duration of the short-term compensation shall not be ascertained from the table in paragraph (1) above but shall be ascertained from the table in paragraph (1), and payable as set out in paragraph (1A), of regulation 11 of the 1989 Regulations<sup>(30)</sup> as in force before the amendments made by the Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 1996<sup>(31)</sup>.

(3) Subject to paragraphs (4) and (5), a person's long-term compensation under regulation 15 is payable—

- (a) from the day following that 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.

(4) 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.

(5) 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.

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<sup>(30)</sup> Paragraph (1) of regulation 11 was substituted and paragraph (1A) was added by [S.I. 1994/1059](#).

<sup>(31)</sup> [S.I. 1996/2777](#).

## PART VI

### ADJUSTMENTS

#### Redundancy payments

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

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

(2) If his lump sum compensation payable under regulation 12 would exceed the relevant amount, it is to be reduced by that amount.

(3) If his lump sum compensation payable under regulation 12 would equal the relevant amount, it is not to be paid.

(4) If his lump sum compensation payable under regulation 12 would be less than the relevant amount—

- (a) it is not to be paid, and
- (b) the rate of his annual compensation payable under regulation 12 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 2/3rds years, and

C is any amount by which the redundancy payment is reduced under the Redundancy Payments Pensions Regulations 1965(32).

(6) The reduction mentioned in paragraph (4)(b) is to be calculated from the table below except that, where the material date in relation to that teacher is before 1st December 1996, the reduction is to be calculated from the table in regulation 12(6) of the 1989 Regulations as in force before the amendment made by the Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 1996(33).

**TABLE**

<i>Age last birthday</i>	<i>Amount (£) of reduction per £100 of difference between lump sum compensation payable under regulation 12 and relevant amount</i>	
	<i>Men</i>	<i>Women</i>
50	5.93	5.43
51	6.00	5.47
52	6.08	5.53

(32) S.I. 1965/1932.

(33) S.I. 1996/2777.

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<i>Age last birthday</i>	<i>Amount (£) of reduction per £100 of difference between lump sum compensation payable under regulation 12 and relevant amount</i>	
	<i>Men</i>	<i>Women</i>
53	6.18	5.61
54	6.30	5.72
55	6.44	5.84
56	6.59	5.97
57	6.75	6.11
58	6.92	6.25
59	7.10	6.39
60	7.29	6.54
61	7.50	6.70
62	7.73	6.87
63	7.97	7.05
64	8.22	7.24

### **Termination payments**

**18.**—(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,
- (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 12 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,
- (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 under regulation 12 would exceed the termination payment, it is to be reduced by the amount of the termination payment.

(5) If his lump sum compensation under regulation 12 would equal the termination payment, it is not to be paid.

(6) If his lump sum compensation under regulation 12 would be less than the termination payment—

- (a) it is not to be paid, and
- (b) his annual compensation under regulation 12 is to be reduced by the difference.

(7) If—

- (a) by reason of regulation 17(3) or (4) (redundancy payments) no lump sum compensation is payable under regulation 12, or
- (b) lump sum compensation was paid under regulation 12 before the termination payment became payable,

his annual compensation under regulation 12 is to be reduced by the amount of the termination payment.

(8) Reductions of annual compensation payable under regulation 12 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

19.—(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 14 (short-term compensation on death) or 15 (long-term compensation on death), 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,
- (b) are made as mentioned in regulation 18(2), and
- (c) are not made under regulation 10 (short-term family benefits).

(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, excluding any compensation paid under regulation 7 or 10, the compensation is not to be paid.

(4) If the relevant periodic payments in respect of any period are less than the compensation referred to in paragraph (3) that compensation is to be reduced by the amount of those payments.

### New employment

20.—(1) References in this regulation to regulation E14 are references to regulation E14 of the Superannuation Regulations(34).

(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—

- (a) while the assumed retirement pension would fall to be reduced under regulation E14(3), no annual compensation under regulation 12 is to be paid, and
- (b) while sub-paragraph (a) does not apply, the rate of his annual compensation under regulation 12 is to be reduced by the excess (if any) of

$$(A + G + H) \text{ over } (C + D - E)$$

where

A, C, D and E are the same as in regulation E14(3) and—

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(34) Regulation E14 was amended by S.I. 1989/378, 1993/114, 1994/1058, 1995/2004 and 1997/312.

G is the full annual rate of his annual compensation payable under regulation 12, and  
H is the annual rate of the assumed retirement pension.

- (4) For the purposes of paragraph (3)—
- (a) regulation E14(3) is 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 payable under regulation 12, G comprises his total annual compensation payable under regulation 12 but each component is to be reduced only in the proportion which it bears to that total.

### Cessation of new employment

- 21.—(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
- $$A + B - (C - D) + E \text{ exceeds } F,$$

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 Schedule 1, 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 payable under regulation 12 is to be reduced by—
- $$G \times H$$

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where—

G is whichever is the shortest of B, or (C–D), or 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—

$$J \cdot \frac{J \times K}{K \cdot 100}$$

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 payable under regulation 12 is the rate at which it would be payable if no account were taken of any suspension or reduction under regulation 18 (termination payments) or 19 (periodic payments), 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 under regulation 12 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 VII

### MISCELLANEOUS AND SUPPLEMENTAL

#### **Liability for compensation**

**22.**—(1) Subject to paragraph (7), the cost of compensation to which a person is entitled under Parts IV and V of 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 Schedule 1.

(3) Where—

- (a) the former employment fell within category D or E, and
- (b) in consequence of any amalgamation, merger or other arrangement the institution 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 Secretary of State becomes the compensating authority.

(5) Where the employment in question did not fall within any of the categories A to E then the compensating authority is—

- (a) the person or body of persons responsible for the management of the institution or, where the institution has amalgamated or merged with another institution or has closed, the institution with which it has amalgamated, merged or been succeeded, as the case may be, (the “successor establishment”), or
- (b) where there is no successor establishment, the Secretary of State.

(6) References in paragraphs (3) to (5) above to an institution include references to a successor establishment.

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

- (a) require the governing body of the school to repay her any amounts paid by her 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

- 23.—(1) A compensating authority may—
- (a) itself pay any compensation for which it is liable under regulation 22, 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

- 24.—(1) As soon as is reasonably practicable after—
- (a) an eligible teacher has been credited with a period of service under regulation 11,
  - (b) a credited teacher has died,
  - (c) a person becomes entitled to compensation under regulation 7, or
  - (d) any adjustment had been made under regulation 8 or Part VI,

the compensating authority shall 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) to (c) applies, what compensation is payable, and
  - (b) where paragraph (1)(d) applies, what adjustment has been made,

and how the compensation or adjustment has been calculated.

### Supply of information

25.—(1) A credited teacher or a person entitled to compensation under regulation 7 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

- 26.—(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**

**27.**—(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 shall pass 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<sup>(35)</sup>.

### **Modified application in relation to persons entitled to admitted service benefits**

**28.** In relation to a person with admitted service these Regulations have effect with the modifications set out in Schedule 2.

### **Revocation and transitional provisions**

**29.**—(1) The 1989 Regulations<sup>(36)</sup>, the Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 1994<sup>(37)</sup> and the Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 1996<sup>(38)</sup> are revoked.

(2) Where a period of time specified in, or applying by virtue of, a provision of the 1989 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.

(3) Where former employment fell within category D, E, F or H in the 1989 Regulations then such employment shall be regarded as falling within category E in these Regulations and where it fell within category G it shall be regarded as fully within category D in these Regulations.

18th February 1997

*Gillian Shephard*  
Secretary of State for Education and  
Employment

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<sup>(35)</sup> 1986 c. 45.

<sup>(36)</sup> S.I. 1989/298.

<sup>(37)</sup> S.I. 1994/1059.

<sup>(38)</sup> S.I. 1996/2777.

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We Consent,

19th February 1997

*Patrick McLoughlin*  
*Roger Knapman*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

## SCHEDULE 1

Regulations 11 and 22

## 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	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(39) (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(40) (civil servants, etc.) on account of his retirement in the public interest, or for loss of office, or
- (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 11(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,

(39) 1972 c. 70; section 259 was amended by the Local Government Act 1974 (c. 7), section 39; the Food Act 1984 (c. 30), Schedule 10, paragraph 23 and the Food Safety Act 1990 (c. 16), Schedule 3, paragraph 17.

(40) 1972 c. 11.

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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.

## SCHEDULE 2

Regulation 28

### MANDATORY COMPENSATION IN RELATION TO ADMITTED SERVICE

1. A person who is entitled to an annual pension in respect of admitted service and to whom paragraph 29A of Part IV of Schedule 10 (admitted service) to the Superannuation Regulations<sup>(41)</sup> applies (actuarial reductions on premature retirement) is entitled to annual compensation and to lump sum compensation under this Schedule.
2. The rate of the annual compensation is the difference between the rate of the annual pension in respect of admitted service if calculated in accordance with regulation 29A of that Part and the rate if calculated in accordance with regulation 29 of that Part.
3. The amount of the lump sum compensation is the amount, if any, calculated in accordance with the said paragraph 29A by which the lump sum in respect of admitted service is reduced.
4. Regulations 22 (liability for compensation), 23 (arrangement for payment), 24 (notification), 25 (supply of information), 26 (payment of compensation) and 27 (compensation not assignable) shall apply in relation to compensation payable under this Schedule as they apply in relation to compensation payable under regulation 7.

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### EXPLANATORY NOTE

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

These Regulations revoke and replace the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1989 as amended by [S.I. 1994/1059](#) and [1996/2777](#) (“the 1989 Regulations”).

Part II retains the existing provisions regarding discretionary compensation for redundancy.

Part III adds new provision regarding discretionary compensation for termination of employment calculated by reference to length of qualifying employment, as defined, and the amount of a week’s pay less the amount of any statutory redundancy payment and any discretionary compensation for redundancy under Part II.

Part IV adds new provision regarding mandatory compensation for premature retirement. Such mandatory compensation is the counterpart to provisions in the Teachers’ Superannuation (Amendment) Regulations 1997 ([S.I. 1997/312](#)) which provide for the actuarial reduction of the retirement lump sum and the annual rate of the retirement pension in cases of premature

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<sup>(41)</sup> Paragraph 29A was inserted by [S.I. 1997/312](#).

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retirement on or after 1st September 1997. The amount by which they are reduced is paid as lump sum compensation and annual compensation under regulation 7. The definition of “compensating authority” is expanded accordingly (*see regulation 22*).

The remainder of Part IV makes consequential provision regarding abatement of the annual compensation under regulation 7 during further employment (*regulation 8*), payment of a supplementary death grant (*regulation 9*) and short-term family benefits (*regulation 10*).

Parts V and VI retain the provisions formerly in Parts III and IV of the 1989 Regulations regarding discretionary compensation for premature retirement (the so-called additional service credit).

Part VII contains miscellaneous and supplemental provision regarding compensation under Parts IV and V. In addition provision is made regarding mandatory compensation for admitted service as a counterpart to the actuarial reduction of admitted service benefits on premature retirement under provisions in the Teachers’ Superannuation (Amendment) Regulations 1997.