
STATUTORY INSTRUMENTS

1997 No. 312

EDUCATION, ENGLAND AND WALES

The Teachers' Superannuation (Amendment) Regulations 1997

Made - - - - *19th February 1997*
Laid before Parliament *19th February 1997*
Coming into force - - *1st April 1997*

The Secretary of State for Education and Employment, 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 1997 and shall come into force on 1st April 1997 but regulation 17 and Schedule 2 (NHS transferees) shall have effect from 1st April 1991.

(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 the following provisions of these Regulations.

Exclusion from pensionable employment

3. In regulation B5 (exclusion from pensionable employment) there shall be added at the end a new paragraph—

“(6) A person is not in pensionable employment in respect of any employment which commenced on or after 1st April 1997 while he is entitled to be paid a teacher's pension,

(1) 1972 c. 11; section 9 was amended by sections 4(1), 8(3) and (4) and 11 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) and section 12 was amended by section 10 of that Act.
(2) See S.I. 1981/1670.
(3) S.I. 1988/1652; the relevant amending instruments are S.I. 1989/378, 1989/811, 1993/114, 1994/1058, 1996/2269.

including cases where the annual rate of the pension has been reduced to zero in accordance with regulation E14 (abatement of retirement pension during further employment).”.

Age and ill health retirement

4.—(1) In regulation E4(2)(c) (Case A: age retirement) for “or D” there shall be substituted “, D, E or F”.

(2) For regulation E4(6) (Case E: ill health retirement) there shall be substituted the following paragraph—

“(6) In case E the person—

- (a) has ceased after 31st March 1972 and before attaining the age of 60 to be in pensionable employment,
- (b) is incapacitated and became so before attaining the age of 60, and
- (c) is not within Case F,

and, in cases where the pensionable employment ceased on or after 1st April 1997 the Secretary of State has notified him in writing that he has not exercised, or is not considering the exercise of, his powers under regulation 10(2) or (10) of the Education (Teachers) Regulations 1993⁽⁴⁾ to direct on grounds of that person’s misconduct that he be not appointed to or employed in relevant employment as defined in regulation 7 of those Regulations.”.

Date on which entitlement under Case E takes effect

5. In regulation E4(9)⁽⁵⁾ for sub-paragraph (b)(i) there shall be substituted—

“(i) as soon as the person falls within the Case or as soon as the person would have fallen within the Case had there not been a requirement that the Secretary of State notify that person that he has not exercised, or is not considering the exercise of, his powers of direction under regulation 10(2) or (10) of the Education (Teachers) Regulations 1993, or”.

Early retirement generally

6.—(1) For regulation E4(7) there shall be substituted the following paragraph—

“(7) In Case F the person—

- (a) has attained the age of 50,
- (b) has ceased after attaining that age but before attaining the age of 60 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),
- (c) is not within Case E, and
- (d) has not received and is not to receive compensation under Part III of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997⁽⁶⁾ (discretionary compensation for termination), and his employer has notified the Secretary of State in writing—

⁽⁴⁾ S.I. 1993/543; the relevant amending instrument is S.I. 1995/2594.

⁽⁵⁾ Regulation E4(9) was substituted by S.I. 1996/2269.

⁽⁶⁾ S.I. 1997/311.

- (i) that his employment was terminated by reason of his redundancy or in the interests of the efficient discharge of the employer's functions; and
- (ii) that the employer has agreed that he should become entitled to retirement benefits under this Case."

(2) In regulation E4(7A)(7) for "regulation 4(5) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1989" there shall be substituted "regulation 4(8) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997(8)".

Actuarial reduction of pension on early retirement

7. In regulation E5 (amount of retirement pension)—

- (a) in paragraph (1) for "(4)" there shall be substituted "(5)";
- (b) at the end of the definition of "B" in paragraph (3) there shall be added "and, where applicable, paragraph (5)"; and
- (c) there shall be added at the end new paragraphs as follows—

"(5) Where this paragraph applies the annual rate of a person's retirement pension shall be the annual rate calculated in accordance with the foregoing provisions of this regulation of the retirement pension to which he would be entitled apart from this paragraph and ignoring the effect of regulation E10 (national insurance modification of pensions) multiplied by the appropriate factor.

- (a) (6) Subject to sub-paragraphs (b) and (c), paragraph (5) applies in Case F, as described in regulation E4(7), where a person has ceased to be in employment as there described on or after 1st September 1997.
- (b) Paragraph (5) shall not apply where notice to terminate the person's employment was given or his resignation was tendered on or before 22nd October 1996(9).
- (c) Paragraph (5) shall not apply so as to reduce the annual equivalent of a person's guaranteed minimum pension together with that of any equivalent pension benefits where that is the annual rate of his retirement pension in accordance with paragraph (3).

(7) For the avoidance of doubt, in regulations E7 to E9 references to "retirement benefits" and "retirement pension" are references to such benefits as calculated before any actuarial reduction required by paragraph (5)."

Actuarial reduction of lump sum on early retirement

8. In regulation E6 (amount of retirement lump sum)—

- (a) in paragraph (1) for "paragraph (2)" there shall be substituted "paragraphs (2) and (3)"; and
- (b) there shall be added at the end new paragraphs as follows—

"(3) Where this paragraph applies the amount of a person's retirement lump sum shall be the amount calculated in accordance with the foregoing provisions of this regulation of the lump sum to which he would be entitled apart from this paragraph multiplied by the appropriate factor.

- (a) (4) Subject to sub-paragraph (b), paragraph (3) applies in Case F, as described in regulation E4(7), where a person has ceased to be in employment as there described on or after 1st September 1997.

(7) Paragraph (7A) was inserted by S.I. 1989/378.

(8) S.I. 1997/311.

(9) This is the date on which the Secretary of State began her consultation on the proposals now enacted in paragraph (5).

(b) Paragraph (3) shall not apply where notice to terminate the person's employment was given or his resignation was tendered on or before 22nd October 1996⁽¹⁰⁾.

(5) For the avoidance of doubt, in regulations E7 and E8 references to "retirement benefits" and "retirement lump sum" are references to such benefits as calculated before any actuarial reduction required by paragraph (3)."

Duplicate pensions

9. In regulation E9(2) (avoidance of duplicate pensions) there shall be added at the end "or where the other pension is payable under regulation 7 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997".

National Insurance modification of pensions

10. In regulation E10 there shall be added at the end "including retirement pensions that have been actuarially reduced under regulation E5(5)".

Actuarial reduction of abatement

11. In regulation E14 (abatement of retirement pension during further employment)—

- (a) in paragraph 1(a) there shall be inserted after "70" the words "or but for regulation B5(6)";
- (b) in paragraph (3)(b) there shall be inserted after "case" the words "and subject to paragraph (4)";
- (c) in paragraph (3) in the definition of "B" after "pension" there shall be inserted "disregarding any actuarial reduction required by regulation E5(5) (actuarial reduction of pension on early retirement)"; and
- (d) there shall be added at the end⁽¹¹⁾ the following paragraph—

"(4) Where regulation E5(5) applies (actuarial reduction of pension on early retirement) the amount (if any) by which the annual rate of the pension is to be reduced under paragraph (3)(b) shall be the amount (if any) referred to in that sub-paragraph multiplied by the appropriate factor."

Actuarial reduction of retirement benefits on cessation of further employment

12. In regulation E15 (retirement benefits on cessation of further employment) at the end there shall be added the following paragraph—

"(9) Where a person ceases to be in further employment on or after 1st September 1997 and qualifies for retirement benefits under Case F as described in regulation E4(7)—

- (a) regulation E5(5) shall also apply to that person and to his retirement pension under paragraph (2)(b) or 3(b) or his additional retirement pension under paragraph (4); and
- (b) regulation E6(3) shall also apply to that person and to his retirement lump sum under paragraph (2)(b) or 3(b) or his additional retirement lump sum under paragraph (4)."

⁽¹⁰⁾ This is the date on which the Secretary of State began her consultation on the proposals now enacted in paragraph (3).

⁽¹¹⁾ Paragraphs (4) and (5) of regulation E14 as first made were omitted by S.I. 1994/1058.

Increase in death grant

13. In regulation E19(2)(b) (death grant) there shall be added at the end “or, in the case of a death occurring on or after 1st April 1998, twice his average salary”.

Actuarial reduction of supplementary death grant

14. In regulation E20 (supplementary death grant)—

- (a) in paragraphs (2) and (3) before the word “a” there shall be inserted the words “subject to paragraph (4A)”;
- (b) in paragraph (4)—
 - (i) in sub-paragraph (a) after “under” there shall be inserted “regulation E5(5) (actuarial reduction of pension on early retirement),”, and
 - (ii) in sub-paragraph (b) after “Regulations” there shall be added “(including any actuarial reduction under regulation E6(3) (actuarial reduction of lump sum on early retirement))”; and
- (c) there shall be added after paragraph (4) a new paragraph—

“(4A) Where regulation E5(5) applies a supplementary death grant may be paid equal only to the deficiency referred to in paragraph (2) or (3), as the case may be, multiplied by the appropriate factor.”.

Actuarial reduction of short-term family benefits

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

- (a) in paragraph (1) for “paragraph (2)” there shall be substituted “paragraphs (2) and (4)”;
- (b) in paragraph (3)(**12**) “Subject to paragraph (4)” shall be omitted; and
- (c) there shall be added at the end(**13**) the following paragraph—

“(4) Where regulation E5(5) applies (actuarial reduction of pension on early retirement) the annual rate of a short-term pension payable under regulation E23 shall be the annual rate calculated in accordance with paragraph (1) or (2) multiplied by the appropriate factor.”.

Scheme finance

16. For Part G there shall be substituted the Part G set out in Schedule 1 to these Regulations.

Modified application in respect of certain NHS transferees

17.—(1) There shall be added at the end of regulation H2 the following paragraph—

“(5) In relation to certain persons who were formerly members of the National Health Service Pension Scheme these Regulations have effect with the modifications set out in Part VII of Schedule 10.”.

(2) There shall be inserted at the end of Schedule 10 the new Part set out in Schedule 2 to these Regulations.

(12) Regulation E24(3) was substituted by S.I. 1996/2269.

(13) Regulation E24(4) as first made was omitted by S.I. 1996/2269.

New definitions

18.—(1) In Schedule 1 (glossary of expressions)—

- (a) after the entry relating to the expression “Admitted service” there shall be inserted the following entry—

<p>““The Appropriate factor”</p>	<p>The factor being—</p> <ul style="list-style-type: none"> (a) in relation to a retirement pension and to the retirement benefits referred to in regulations E20 and E24, the factor set out in Table I in Schedule 9A or, in the case of a person to whom paragraph 40 of Part VII of Schedule 10 applies (certain nurses, physiotherapists, midwives, health visitors and mental health officers), set out in Table III in that Schedule, and (b) in relation to a retirement lump sum, the factor set out in Table II in Schedule 9A or, in the case of a person to whom paragraph 40 of Part VII of Schedule 10 applies (certain nurses, physiotherapists, midwives, health visitors and mental health officers), set out in Table IV in that Schedule, <p>corresponding to the age of that person in complete years and months when he became entitled to payment of that retirement pension and retirement lump sum.”; and</p>
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- (b) for paragraph (a) of the definition of “incapacitated” there shall be substituted the following—

“(a) in the case of a teacher, an organiser or a supervisor, while he is unfit by reason of illness or injury and despite appropriate medical treatment to serve as such and is likely permanently to be so, and”.

- (c) after the entry relating to the expression “Member” there shall be inserted the following entry—

<p>““The Amending Regulations”</p>	<p>The Teachers’ Superannuation (Amendment) Regulations 1997.”.</p>
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(2) The amendment to the definition of “incapacitated” shall not apply for the purpose of determining whether a person has become incapacitated where the written application for payment of benefit in accordance with regulation E31(2) of the principal Regulations has been received by the Secretary of State before 1st April 1997.

Actuarial tables for early retirement

19. There shall be inserted after Schedule 9 the Schedule set out in Schedule 3 to these Regulations.

Actuarial reduction of admitted service benefits

20. Part IV of Schedule 10 (admitted service) shall be amended by the insertion of a new paragraph as follows—

“**29A.**—(1) Where regulation E5(5) applies to a person who is also entitled to an annual pension in respect of admitted service then the rate of that annual pension is the rate calculated in accordance with paragraph 29(1) multiplied by the factor set out in Table I in Schedule 9A corresponding to the age of that person in complete years and months when he became entitled to payment of that pension.

(2) Where regulation E6(3) applies to a person who is also entitled to a lump sum in respect of admitted service then the amount of the lump sum is the amount calculated in accordance with paragraph 29(2) multiplied by the factor set out in Table II in Schedule 9A corresponding to the age of that person in complete years and months when he became entitled to payment of that lump sum.”.

Part of retirement pension that may be allocated

21. In Schedule 11 (allocation of part of retirement pension)—

- (a) in paragraph 1(2)(a) after “disregarding” there shall be inserted “any actuarial reduction required by regulation E5(5) (actuarial reduction of pension on early retirement) and”;
- (b) in paragraph 5(1) after sub-sub-paragraph (a) there shall be inserted—
 - “(aa) if paragraph (5) of regulation E5 (actuarial reduction of pension on early retirement) applies, the amount or estimated amount of the retirement pension to which he would be entitled if that paragraph did not apply”; and
- (c) in paragraph 9(1) after “retirement pension” there shall be inserted “disregarding any actuarial reduction required by regulation E5(5) (actuarial reduction of pension on early retirement)”.

Form of account

22.—(1) Part I of Schedule 13 shall be revoked.

(2) For Part II of Schedule 13 there shall be substituted the Part II set out in Schedule 4 to these Regulations.

(3) The revocation and substitution referred to in paragraphs (1) and (2) are subject to the savings set out in regulation G1 of the principal Regulations as substituted by these Regulations.

Elections in respect of protected benefits

23.—(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 April 1997.

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

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- (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 April 1997); 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.

18th February 1997

Gilliant Shephard
Secretary of State for Education and
Employment

We consent,

19th February 1997

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

SCHEDULE 1

Regulation 16

NEW PART G IN THE PRINCIPAL REGULATIONS

“PART G FINANCE

General

G1.—(1) References in this Part to the “old Part G” or to a numbered regulation prefaced by the word “old” are references to Part G of these Regulations before the substitution effected by the Amending Regulations or to a regulation in that Part and references to the “old Part II of Schedule 13” are references to Part II of Schedule 13 to these Regulations before the substitution effected by the Amending Regulations.

(2) Old Part G and Part I of Schedule 13 shall remain in force in relation to the accounts prepared or to be prepared by the Secretary of State in relation to financial years commencing before 1st April 1996, to the actuarial inquiries to be made at the end of the financial years ending with 31st March 1991 and 31st March 1996 and the reports thereon and subject to the provisions of this Part to the calculation of employers’ contributions during the two relevant periods commencing on 1st April next following the date of the 1991 and 1996 reports respectively. Old Part II of Schedule 13 shall remain in force in relation to the accounts prepared or to be prepared in relation to the financial years commencing before 1st April 1996.

(3) In this Part references to the 1991, 1996 or 2001 reports are references to the reports on the actuarial inquiries under old regulation G4 or regulation G8 at the end of the financial year ending with 31st March 1991, 1996 or 2001, respectively.

(4) For the purposes of the inquiry under old regulation G4(1) at the end of the financial year ending with 31st March 1991 and the supplemental inquiry under regulation G2(1) and the subsequent reports no account shall be taken in assessing the scheme liabilities of the increase in death grant payable as a result of the amendment to regulation E19(2)(b) by regulation 13 of the Amending Regulations.

(5) In respect of the relevant period next following the date of the 1991 report, the required percentage referred to in old regulation G5(2) shall, in respect of the period 1st April 1997 to 30th June 1997, continue to be calculated on the basis of the percentages specified for the preceding relevant period under old regulation G4(3), (7) and (8).

Supplemental actuarial inquiry as at 31st March 1991

G2.—(1) The Government Actuary shall make a supplemental actuarial inquiry on the position in relation to the account prepared by the Secretary of State pursuant to old regulation G1 as at the end of the financial year ending with 31st March 1991 (“the financial year in question”).

(2) The Government Actuary shall make a report on the supplemental actuarial inquiry to the Secretary of State who shall lay the report before each House of Parliament. This duty shall be taken to be satisfied if a report in the form required by this regulation has been so made and laid before the date that the Amending Regulations come into force.

(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 1997 and ending with 31st March next following the date of the 1996 report (“the relevant period”), so as to defray the cost of

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the payments of the kinds described in regulation G6(a) to (f) and 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 notional scheme assets exceeded or fell short of that of the scheme liabilities.

(5) The notional scheme assets are—

- (a) the value of the employees' contributions receivable 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,
- (b) the value of the employers' contributions in respect of such persons receivable after the end of the financial year in question, except any such supplementary contributions as are mentioned in paragraph (7),
- (c) the value of the payments that would fall to be credited under regulation G4(4)(d) and (e) to the shadow accounts referred to in regulation G3(1) for subsequent financial years up to and including the financial year ending with 31st March 1996 and to the accounts for financial years ending thereafter,
- (d) the actuarial value at the end of the financial year in question of the balance in the account, and
- (e) the actuarial value of the initial credit referred to in regulation G5(1).

(6) The scheme liabilities are, subject to regulation G1(4), the payments to be made under these Regulations and in respect of pension increase under the Pensions (Increase) Act 1971(14) 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 notional scheme assets, it is to specify a rate at which, during the relevant period, supplementary contributions should be paid by employers of persons in pensionable employment so as to remove the deficiency by 31st March 2006.

(8) The rate referred to in paragraph (7) 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.

(9) The report shall specify an amount (referred to in these Regulations as "the supplementary credit") for the purposes of regulation G5(2) which is the actuarial value equal to two-thirds of the capital value of the difference between A and B over the period 1st April 1997 to 31st March 2006 where—

A is the required percentage of contributable salary calculated under old regulation G5, and

B is $(C-6)+D$,

where C is the percentage specified for the relevant period under paragraph (3) above, and

D is any percentage specified for the relevant period under paragraphs (7) and (8) above.

(10) In this regulation "employees' contributions" and "employers' contributions" are to be construed in accordance with regulation G4(2) and (3).

Teachers' superannuation account

G3.—(1) An account substantially in the form set out in Part II of Schedule 13 is to be prepared by the Secretary of State for every financial year commencing with the financial year ending with 31st March 1997.

(2) For the purposes only of the supplemental actuarial inquiry and the alternative actuarial inquiry and the preparation of the account for the financial year commencing 1st April 1996 the Secretary of State shall prepare shadow accounts substantially in that form for each financial year commencing in the period 1st April 1991 to 1st April 1995.

(3) References in regulations G4 and G6 to the account are, where the Secretary of State prepares a shadow account in respect of that financial year, references to that shadow account.

Receipts, etc., to be credited

G4.—(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 C2(1), C3, C4, C5, C7 and C9,
- (b) so much of the contributions payable by services education officers under regulation C2(2) as falls within regulation C2(2)(a),
- (c) so much of the additional contributions payable under regulation C8 as would have been payable under regulation C2(1) if pensionable employments had continued, and
- (d) all amounts payable under regulations C14 and C15 (return of repaid contributions).

(3) Employers' contributions comprise—

- (a) the contributions payable under old regulation G5 or regulation G9,
- (b) so much of the contributions payable by services education officers under regulation C2(2) as falls within regulation C2(2)(b), and
- (c) so much of any additional contributions payable under regulation C8 as would have been payable under old regulation G5 or regulation G9 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 under regulation F5 and additional transfer values under regulation D6 (war service) received during the financial year,
- (c) all contributions equivalent premiums refunded, or recovered under section 61 of the Pension Schemes Act 1993(15), 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

(15) 1993 c. 48.

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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.

Initial and supplementary credits as at 1st April 1991

G5.—(1) There is to be credited to the shadow account as at 1st April 1991 an amount (referred to in these Regulations as “the initial credit”), which is the market value, determined by the Government Actuary, of assets equivalent to the actuarial value as at 31st March 1991 of the cost of increases payable after 31st March 1991 under the Pensions (Increase) Act 1971⁽¹⁶⁾ on retirement benefits and family benefits referable to reckonable service up to and including 31st March 1991.

(2) There is to be credited to the shadow account as at 1st April 1991 an amount which is the market value, determined by the Government Actuary, of assets equivalent to the amount of the supplementary credit calculated in accordance with regulation G2(9).

Payments to be debited

G6. 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) repayments of contributions (including interest) under regulations C10 and C12,
- (d) transfer values under regulation F1 and additional transfer values under regulation F2 (war service),
- (e) contributions equivalent premiums, and
- (f) increases payable under the Pensions (Increase) Act 1971.

Alternative actuarial inquiry as at 31st March 1996

G7.—(1) The Government Actuary shall make an alternative actuarial inquiry reporting on the position in relating to the shadow account as at the end of the financial year ending with 31st March 1996 (“the financial year in question”).

(2) The Government Actuary shall make a report on the alternative inquiry, as soon as practicable after 1st April 1997, to the Secretary of State who 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 2001 report (“the relevant period”), so as to defray the cost of the payments of the kinds described in regulation G6(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 notional scheme assets exceeded or fell short of that of the scheme liabilities.

(5) The notional scheme assets are—

(16) 1971 c. 56.

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- (a) the value of the employees' contributions receivable 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,
- (b) the value of the employers' contributions in respect of such persons receivable after the end of the financial year in question, except any such supplementary contributions as are mentioned in paragraph (7),
- (c) the value of the payments that would fall to be credited under regulation G4(4)(d) and (e) to the accounts for subsequent financial years, and
- (d) the actuarial value at the end of the financial year in question of the balance in the shadow account.

(6) The scheme liabilities are the payments to be made under these Regulations and in respect of pension increase 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 notional scheme assets, it is to specify a rate 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 next following the date of the report.

(8) If the report states that the amount of the notional scheme assets exceeded that of the scheme liabilities, it is to specify a rate 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 next 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) For the purposes of the old Part G, the required percentage during the relevant period which commences on 1st April next following the date of the 1996 report shall be whichever is the lesser of

A and B

where—

A is the required percentage of contributable salary calculated under old regulation G5, and

B is $(C-6)+D-E$ or, if the result would be less than zero, zero, where,

C is the percentage specified for the relevant period under paragraph (3),

D is any percentage specified for the relevant period under paragraphs (7) and (9),

E is any percentage specified for the relevant period under paragraphs (8) and (9).

(11) In this regulation “employees’ contributions” and “employers’ contributions” are to be construed in accordance with regulation G4(2) and (3).

Actuarial inquiries as at 31st March 2001 and every fifth subsequent financial year

G8.—(1) 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”).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(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 G6(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 question in respect of persons who at the end of that year were or had been in pensionable employment,
- (b) the value of the employers’ contributions in respect of such persons receivable after the end of the financial year in question, except any such supplementary contributions as are mentioned in paragraph (7),
- (c) the value of the payments that would fall to be credited under regulation G4(4)(d) and (e) to the accounts for subsequent financial years, and
- (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 increase 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 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 next 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 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 next 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 G4(2) and (3).

Employers’ contributions

G9.—(1) Subject to paragraph (3), the employer of a person in pensionable employment, other than a services education officer, is during every relevant period beginning with the relevant period beginning on the 1st April next following the date of the 2001 report to pay contributions of the required percentage of his contributable salary for the time being.

(2) The required percentage 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 G8(3),

B is any percentage specified for the relevant period under regulation G8(7) and (9), and

C is any percentage specified for the relevant period under regulation G8(8) and (9).

(3) No contributions are to be paid in respect of anyone to whom regulation E30(2)(a) (restriction of reckonable service to 45 years) has become applicable.

(4) 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 G8(3).

(5) In this regulation “employment business” has the meaning assigned to it by section 13(3) of the Employment Agencies Act 1973(17).

Payments by employers to Secretary of State

G10.—(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 C16(1), and

(b) the contributions payable under old regulation G5 or regulation G9,

in respect of his contributable salary for that month.

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

(a) all salaries are to be treated as being payable monthly in arrear, 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.

(3) If the full amount of any payment required by paragraph (1) is not received by the Secretary of State within 7 days after the end of the month interest is payable by the 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.”

SCHEDULE 2

Regulation 17(2)

NEW PART VII IN SCHEDULE 10 TO THE PRINCIPAL REGULATIONS

“PART VII

PERSONS FORMERLY MEMBERS OF THE NATIONAL HEALTH SERVICE PENSION SCHEME

36. In this Part—

(17) 1973 c. 35.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) “the 1995 Regulations” means the National Health Service Pension Scheme Regulations 1995⁽¹⁸⁾; and
- (b) the expression “member” and “scheme” shall be construed in accordance with the 1995 Regulations.

37. This Part applies to a person—

- (a) who immediately before he was in pensionable employment (for the purposes of these Regulations) was in pensionable employment within the meaning of the 1995 Regulations; and
- (b) who ceased to be in pensionable employment within the meaning of the 1995 Regulations and became employed in pensionable employment for the purposes of these Regulations by virtue of a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 1981⁽¹⁹⁾.

38. Where a transfer value has been accepted in respect of a person to whom this Part applies pursuant to a written request made by that person within 12 months of the date of the transfer referred to in paragraph 37, he is entitled to count as reckonable service the period which, at the time of the relevant transfer, he was entitled to count as pensionable service for the purposes of the 1995 Regulations.

39.—(1) If a person to whom this Part applies—

- (a) chose, while he was a member of the scheme to increase his right to benefits under the scheme by buying additional service under regulation Q1 of the 1995 Regulations by making regular additional contributions;
- (b) at the time of the relevant transfer referred to in paragraph 37 had not completed the payment of the additional contributions; and
- (c) a transfer value has been accepted by the Secretary of State,

he may complete the payment of such contributions as if Part Q of the 1995 Regulations applied to him and shall accordingly be entitled to count as reckonable service the additional service which he buys by the payment of such contributions.

(2) Regulation C16 shall apply to the contributions referred to in this paragraph as if such contributions were being paid under regulation C3.

(3) For the purposes of any provision in these Regulations which imposes a maximum on the contributions which a person can make, the contributions referred to in this paragraph shall be treated as paid under Part C.

40. Where a person to whom this Part applies—

- (a) was immediately before the relevant transfer referred to in paragraph 37 a person to whom regulation R2 of the 1995 Regulations or regulation 54 of the National Health Service (Superannuation) Regulations 1980⁽²⁰⁾ (special provision for certain nurses, physiotherapists, midwives and health visitors) or regulation R3 of the 1995 Regulations or regulation 55 of the National Health Service (Superannuation) Regulations 1980 (special provision for certain mental health officers) applied, and
- (b) has continued to be such a person after the said transfer save only for the fact that his employer was not an employing authority within the meaning of the 1995 Regulations,

⁽¹⁸⁾ S.I. 1995/300.

⁽¹⁹⁾ S.I. 1981/1794; amended by S.I. 1987/442, 1995/2587 and the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 33.

⁽²⁰⁾ S.I. 1980/362; the relevant amending instrument is S.I. 1982/1765.

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regulation E4 shall apply in relation to that person as if the references to the age of 60 were references to the age of 55.”

SCHEDULE 3

Regulation 19

ACTUARIAL TABLES

“SCHEDULE 9A

TABLE I

EARLY RETIREMENT FACTORS—PENSIONS

Age Complete years	Complete months											
	0	1	2	3	4	5	6	7	8	9	10	11
50	0.561	0.563	0.566	0.568	0.570	0.572	0.575	0.577	0.579	0.581	0.584	0.586
51	0.588	0.591	0.593	0.596	0.598	0.601	0.603	0.606	0.608	0.611	0.613	0.616
52	0.618	0.621	0.624	0.626	0.629	0.632	0.635	0.637	0.640	0.643	0.646	0.648
53	0.651	0.654	0.657	0.660	0.663	0.666	0.669	0.672	0.675	0.678	0.681	0.684
54	0.687	0.690	0.694	0.697	0.701	0.704	0.708	0.711	0.714	0.718	0.721	0.725
55	0.728	0.732	0.736	0.740	0.743	0.747	0.751	0.755	0.759	0.763	0.766	0.770
56	0.774	0.778	0.782	0.786	0.790	0.794	0.799	0.803	0.807	0.811	0.815	0.819
57	0.823	0.828	0.832	0.837	0.841	0.846	0.850	0.855	0.859	0.864	0.868	0.873
58	0.877	0.882	0.887	0.892	0.897	0.902	0.907	0.911	0.916	0.921	0.926	0.931
59	0.936	0.941	0.947	0.952	0.957	0.963	0.968	0.973	0.979	0.984	0.989	0.995

TABLE II

EARLY RETIREMENT FACTORS—LUMP SUMS

Age Complete years	Complete months											
	0	1	2	3	4	5	6	7	8	9	10	11
50	0.695	0.697	0.699	0.702	0.704	0.706	0.708	0.710	0.712	0.715	0.717	0.719
51	0.721	0.723	0.725	0.728	0.730	0.732	0.734	0.736	0.738	0.741	0.743	0.745
52	0.747	0.749	0.752	0.754	0.756	0.759	0.761	0.763	0.766	0.768	0.770	0.773
53	0.775	0.777	0.780	0.782	0.784	0.787	0.789	0.791	0.794	0.796	0.798	0.801
54	0.803	0.806	0.808	0.811	0.813	0.816	0.818	0.821	0.823	0.826	0.828	0.831
55	0.833	0.836	0.838	0.841	0.843	0.846	0.849	0.851	0.854	0.856	0.859	0.861

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Age Complete years	Complete months											
	0	1	2	3	4	5	6	7	8	9	10	11
56	0.864	0.867	0.869	0.872	0.875	0.877	0.880	0.883	0.885	0.888	0.891	0.893
57	0.896	0.899	0.902	0.904	0.907	0.910	0.913	0.915	0.918	0.921	0.924	0.926
58	0.929	0.932	0.935	0.938	0.941	0.944	0.947	0.949	0.952	0.955	0.958	0.961
59	0.964	0.967	0.970	0.973	0.976	0.979	0.982	0.985	0.988	0.991	0.994	0.997

TABLE III

EARLY RETIREMENT FACTORS—PENSIONS: CERTAIN NHS TRANSFEREES

Age Complete years	Complete months											
	0	1	2	3	4	5	6	7	8	9	10	11
50	0.773	0.776	0.779	0.782	0.785	0.788	0.791	0.794	0.797	0.801	0.804	0.807
51	0.810	0.813	0.816	0.820	0.823	0.826	0.830	0.833	0.837	0.840	0.843	0.847
52	0.850	0.854	0.857	0.861	0.865	0.869	0.872	0.876	0.880	0.883	0.887	0.891
53	0.895	0.899	0.903	0.907	0.911	0.915	0.919	0.924	0.928	0.932	0.936	0.940
54	0.944	0.949	0.954	0.958	0.963	0.967	0.972	0.977	0.981	0.986	0.991	0.995

TABLE IV

EARLY RETIREMENT FACTORS—LUMP SUMS: CERTAIN NHS TRANSFEREES

Age Complete years	Complete months											
	0	1	2	3	4	5	6	7	8	9	10	11
50	0.833	0.835	0.838	0.840	0.843	0.845	0.848	0.851	0.853	0.856	0.858	0.861
51	0.863	0.866	0.869	0.872	0.874	0.877	0.880	0.882	0.885	0.888	0.890	0.893
52	0.896	0.898	0.901	0.904	0.907	0.910	0.912	0.915	0.918	0.921	0.924	0.926
53	0.929	0.932	0.935	0.938	0.941	0.944	0.946	0.949	0.952	0.955	0.958	0.961
54	0.964	0.967	0.970	0.973	0.976	0.979	0.982	0.985	0.988	0.991	0.994	0.997”

SCHEDULE 4

Regulation 22(2)

NEW PART II IN SCHEDULE 13 TO THE PRINCIPAL REGULATIONS

“PART II

FORM OF ACCOUNT FOR FINANCIAL YEARS
ENDING ON AND AFTER 31ST MARCH 1997

FORM OF SHADOW ACCOUNT FOR FINANCIAL YEARS
ENDING BETWEEN 31ST MARCH 1992 AND 31ST MARCH 1996

4. The form referred to in regulation G3 is the following:”

ACCOUNT UNDER REGULATION G3 OF THE TEACHERS’ SUPERANNUATION
(CONSOLIDATION) REGULATIONS 1988 FOR THE YEAR ENDED 31ST MARCH 19

Head	£000’s	£000’s
Notional balance at 1st April 19		
ADD RECEIPTS		
AI Initial Credit (financial year ending 31/3/92 only)		
II Supplementary Credit (financial year ending 31/3/92 only)		
III Contributions		
(i) Employees		
(ii) Employers		
IV Transfer Values		
(i) Actual		
(ii) Notional		
V Contributions equivalent premiums		
VI Miscellaneous receipts		
VII Notional investment income		
DEDUCT PAYMENTS		
BI Benefits		
(i) Annual pensions)	
(ii) Lump sums)	
(iii) Death grants)	
(iv) Widows’ pensions)	

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Head	£000's	£000's
(v) Widowers' pensions)	
(vi) Children's pensions)	
(vii) Other beneficiaries' pensions)	
(viii) Short term pensions)	
II Repayments of contributions		
III Transfer values		
(i) Actual		
(ii) Notional		
IV Contributions equivalent premiums to the State Pension Scheme		
V Increases payable under the Pensions (Increase) Act 1971		
Notional balance at 31st March		
19		

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further amendments to the Teachers' Superannuation (Consolidation) Regulations 1988 ("the principal Regulations").

Regulation 3 provides that a person's employment which commences on or after 1st April 1997 cannot be pensionable employment while he is entitled to be paid a teacher's pension.

Regulation 4 substitutes a new regulation E4(6) and adds an additional requirement for entitlement to ill-health retirement benefits. Entitlement is dependent on a written notice from the Secretary of State that the person in question has not been barred from teaching, or is not being considered for possible barring, on the grounds of misconduct.

Regulation 5 provides for the backdating of entitlement to ill-health benefits, in cases where written notification from the Secretary of State has been received, to the date that entitlement would have accrued had written notification not been required.

Regulation 6 substitutes a new regulation E4(7) which sets out the requirements for entitlement to benefits for those who are retired prematurely by their employer.

Regulations 7, 8 and 18 and Schedule 3 provide for the actuarial reduction of the retirement pension and retirement lump sum payable in respect of those who are retired prematurely by their employer. The Teachers (Compensation for Redundancy and Premature Retirement) Regulations (S.I.1997/311) make provision for the payment of the balance.

Regulations 9, 10, 11, 12, 14, 15 and 21 make consequential provisions.

Regulation 13 provides that death grant payable in respect of deaths occurring on or after 1st April 1998 is increased to a maximum of twice average salary.

Regulation 16 and Schedule 1 substitute a new Part G in the principal Regulations. Part G provides a mechanism for the calculation of employers' contributions to the Scheme. The old Part G in the principal Regulations will be used for preparing accounts for financial years up to and including 1995–96, for actuarial inquiries relating to the account as at 31st March 1991 and 31st March 1996 and for determining employers' contributions following those inquiries, unless as regards the inquiry as at 31st March 1996, the calculation under the new Part G produces a lower rate. In addition the old Part G is modified so that as regards the inquiry as at 31st March 1991, the new employers' contribution rate takes effect from 1st July 1997.

The new Part G requires scheme accounts to be prepared on a basis which includes the cost of pensions increase under the Pensions (Increase) Act 1971 and for notional investment income to be credited in line with the estimated return of large pension funds from 1996–97. To facilitate this shadow accounts are to be kept on that basis for the period 1991–92 to 1995–96.

Regulation 17 and Schedule 2 make special provision for certain transferees from the National Health Service Pension Scheme in particular as regards rights to early retirement. Such provisions have effect from 1st April 1991 pursuant to the power in section 12(1) of the Superannuation Act 1972 to frame Regulations so as to have effect from a date earlier than their making.

Regulation 18 adds new definitions to the glossary of expressions in Schedule 1 to the principal Regulations. In particular there is a new definition of "incapacitated" as regards a teacher, organiser or supervisor.

Regulation 20 provides for the actuarial reduction of retirement benefits in respect of admitted service. These are benefits in relation to service in certain schools prior to 1st May 1975.

Regulation 22 and Schedule 4 set out a new form of account to be prepared by the Secretary of State for every financial year in connection with the Teachers' Superannuation Scheme.

Regulation 23 provides for an individual to opt out where his rights as a former employee are adversely affected by these Regulations.