
STATUTORY INSTRUMENTS

2010 No. 990

The Teachers' Pensions Regulations 2010

PART 7

Benefits for teachers

CHAPTER 1

Preliminary

Introduction

45. This Part makes provision for the payment of—

- (a) phased retirement benefits;
- (b) retirement benefits;
- (c) total incapacity benefits;
- (d) additional pensions;
- (e) admitted service benefits;
- (f) short-service annuities;
- (g) short-service serious ill-health grants.

Benefits for teachers (further employment)

46.—(1) For the purpose of calculating benefits under this Part in respect of each period after a person (P) enters further employment, P is to be treated as if P entered pensionable employment for the first time on entering the further employment.

(2) Despite paragraph (1), P's total reckonable service attributable to employment before any further employment and to all further employment cannot exceed 45 years.

(3) Where P—

- (a) ceases to be in further employment (“the first further employment”) and satisfies the condition for retirement in relation to the first further employment, but
- (b) re-enters further employment (“the second further employment”) before making an application under regulation 107 (payment of benefits on application to Secretary of State) in relation to the first further employment

the first further employment and the second further employment are treated as a single period of further employment.

(4) This regulation is subject to paragraph 22 (further employment commencing before 1st April 1997) of Schedule 13.

CHAPTER 2

Interpretation of provisions relating to normal pension age

“2007 or later entrant”: meaning and normal pension age

- 47.**—(1) A person (P) is a 2007 or later entrant if P falls within paragraph (2) or paragraph (3).
- (2) P falls within this paragraph if—
- (a) P enters pensionable employment for the first time on or after 1st January 2007, and
 - (b) P is not a UK transferee with NPA 60 rights, a UK transferee with NPA 60 and NPA 65 rights or a public sector TUPE transferee.
- (3) P falls within this paragraph if P was in pensionable employment at any time before 1st January 2007, and
- (a) a transfer value or a cash equivalent is paid in respect of P’s pensionable employment other than to a comparable United Kingdom scheme, or
 - (b) P’s contributions in respect of P’s pensionable employment have been repaid under regulation 22.
- (4) A 2007 or later entrant has a normal pension age of 65 in relation to all of the person’s reckonable service.

“Person with mixed service”: meaning and normal pension age

- 48.**—(1) A person (P) is a person with mixed service if P falls within paragraph (2), is a UK transferee with NPA 60 and NPA 65 rights or is a public sector TUPE transferee with NPA 60 and NPA 65 rights.
- (2) P falls within this paragraph if—
- (a) P was in pensionable employment at any time before 1st January 2007, is a UK transferee with NPA 60 rights or is a public sector TUPE transferee with NPA 60 rights,
 - (b) P is not a 2007 or later entrant,
 - (c) P ceases to be in pensionable employment or comparable United Kingdom service, and
 - (d) P re-enters pensionable employment after a disqualifying break.
- (3) A person with mixed service has a normal pension age of 65 in relation to all of the person’s reckonable service except that—
- (a) a person who falls within paragraph (2) has a normal pension age of 60 in relation to such of the person’s reckonable service which is before the post-break employment start date;
 - (b) a UK transferee with NPA 60 and NPA 65 rights has a normal pension age of 60 in relation to such of the transferee’s reckonable service which is attributable to the benefits which, under the rules of the comparable United Kingdom scheme from which the transfer value mentioned in regulation 51(2)(c) was accepted, P would have been entitled to receive on retirement on reaching the age of 60;
 - (c) a public sector TUPE transferee with NPA 60 and NPA 65 rights has a normal pension age of 60 in relation to such of the transferee’s reckonable service which is attributable to the benefits mentioned in regulation 52(4)(a) (meaning of “public sector TUPE transferee”, etc.).
- (4) For the purpose of paragraph (3)(a), where a transfer value other than one from a comparable United Kingdom scheme is accepted when a person is a person with mixed service, the reckonable service attributable to the transfer is to be treated as not being before the post-break employment start date.

(5) For the purpose of paragraph (3)(a), where a transfer value is accepted from a comparable United Kingdom scheme in respect of a person (P)—

- (a) P's reckonable service attributable to the benefits which under the rules of the scheme P would have been entitled to receive on retirement on reaching the age of 60 is to be treated as being before the post-break employment start date, and
- (b) P's reckonable service attributable to the benefits which under the rules of the scheme P would have been entitled to receive on retirement on reaching the age of 65 is to be treated as not being before the post-break employment start date.

(6) For the purposes of this regulation, a person is not to be treated as being entitled under the rules of a pension scheme to receive benefits before or on reaching the age of 60 where such entitlement arises by virtue of any scheme rule making special provision as to early retirement—

- (a) on grounds of ill health, redundancy or otherwise, or
- (b) with reduced benefits.

“Pre-2007 entrant”: meaning and normal pension age

49.—(1) A person (P) is a pre-2007 entrant if—

- (a) P was in pensionable employment at any time before 1st January 2007, is a UK transferee with NPA 60 rights or is a public sector TUPE transferee with NPA 60 rights, and
- (b) P is not a person with mixed service or a 2007 or later entrant.

(2) A pre-2007 entrant has a normal pension age of 60 in relation to all of the person's reckonable service.

Meaning of “NPA 60 reckonable service” and “NPA 65 reckonable service”

50. In these Regulations—

- (a) a reference to a person's “NPA 60 reckonable service” is a reference to the reckonable service in relation to which the person has a normal pension age of 60;
- (b) a reference to a person's “NPA 65 reckonable service” is a reference to the reckonable service in relation to which the person has a normal pension age of 65.

Meaning of “UK transferee with NPA 60 rights, etc.”

51.—(1) A person (P) is a UK transferee with NPA 60 rights if—

- (a) P enters pensionable employment on or after 1st January 2007 other than after a disqualifying break,
- (b) P was in comparable United Kingdom service at any time before that date, and
- (c) no transfer value or cash equivalent is paid in respect of that comparable United Kingdom service by a comparable United Kingdom scheme other than to the Secretary of State under regulation 35 or to another comparable United Kingdom scheme, and
- (d) P's contributions in respect of P's comparable United Kingdom service are not repaid.

(2) A person (P) is a UK transferee with NPA 60 rights and NPA 65 rights if—

- (a) P enters pensionable employment on or after 1st January 2007 after a disqualifying break,
- (b) P was in comparable United Kingdom service at any time before that date, and
- (c) a transfer value is paid in respect of that comparable United Kingdom service by a comparable United Kingdom scheme to the Secretary of State under regulation 35.

Meaning of “public sector TUPE transferee, etc.”

52.—(1) A person (P) is a public sector TUPE transferee if—

- (a) P enters pensionable employment on or after 1st January 2007,
- (b) P enters pensionable employment by virtue of a transfer of undertakings or by virtue of arrangements equivalent to a transfer of undertakings, and
- (c) immediately before entering pensionable employment, P was—
 - (i) in employment (“the previous employment”) which was pensionable under a public service pension scheme (“the previous scheme”), and
 - (ii) entitled under the rules of the previous scheme to receive some or all benefits on retirement from the previous employment before or on reaching the age of 60.

(2) In paragraph (1)—

- (a) “public service pension scheme” has the same meaning as in section 1 of PSA 1993 except that it does not include an occupational pension scheme established under section 7 of SA 1972, and
- (b) the reference to arrangements equivalent to a transfer of undertakings is a reference to arrangements which do not constitute a transfer of undertakings but under which the parties to the arrangements have agreed that the rights of the persons whose employments are being transferred should, so far as practicable, be treated in the same way as they would have been under a transfer of undertakings.

(3) A “public sector TUPE transferee with NPA 60 rights” means a public sector TUPE transferee who immediately before entering pensionable employment was entitled under the rules of the previous scheme to receive on retirement from the previous employment all benefits under the previous scheme before or on reaching the age of 60.

(4) A “public sector TUPE transferee with NPA 60 and NPA 65 rights” means a public sector TUPE transferee who immediately before entering pensionable employment was entitled under the rules of the previous scheme to receive on retirement from the previous employment—

- (a) some benefits under the previous scheme before or on reaching the age of 60, and
- (b) other such benefits on or after reaching the age of 61.

(5) For the purposes of this regulation, a person is not to be treated as being entitled under the rules of a pension scheme to receive benefits before or on reaching the age of 60 where such entitlement arises by virtue of any scheme rule making special provision as to early retirement—

- (a) on grounds of ill health, redundancy or otherwise, or
- (b) with reduced benefits.

Meaning of “disqualifying break” and “post-break employment start date”

53.—(1) A “disqualifying break” means a period of more than 5 years ending after 31st December 2007 during which a person is not in pensionable employment or comparable United Kingdom service.

(2) For the purpose of paragraph (1), a person’s pensionable employment or comparable United Kingdom service in any period of 12 months must be ignored unless the employment in that period—

- (a) amounts to at least 60 days (which may be continuous or discontinuous), or
- (b) counts as reckonable service of at least 30 days or, where the employment is comparable United Kingdom service, would count as reckonable service of at least 30 days if the employment were pensionable employment,

(3) For the purpose of paragraph (1), a person is to be treated as being in pensionable employment or in comparable United Kingdom service during any period for which the person has paid contributions under regulation C9 of TPR 1997 or regulation 19 of these Regulations (election to pay contributions by a person serving in a reserve force) or under equivalent arrangements under a comparable United Kingdom scheme.

(4) The “post-break employment start date” means the date on which a person re-enters pensionable employment or comparable United Kingdom service following a disqualifying break or, where there is more than one such period, the first of them.

CHAPTER 3

Meaning of “qualified for retirement benefits” and “qualified for retirement benefits following further employment”

Meaning of “qualified for retirement benefits”

54.—(1) A person (T) is “qualified for retirement benefits” for the purpose of these Regulations if T satisfies any of Conditions 1 to 6.

(2) But T is not “qualified for retirement benefits” if T has been in further employment.

(3) Condition 1 is that immediately before 1st September 2010 T was qualified for retirement benefits under regulation E3(1)(a) or (b) of TPR 1997.

(4) Condition 2 is that—

- (a) (i) T was in pensionable employment on 6th April 1988 or paying contributions under regulation 30 of TSR 1976 on that date, or
- (ii) T entered pensionable employment for the first time after 6th April 1988, and
- (b) T has retirement benefits qualification service of at least 2 years.

(5) Condition 3 is that—

- (a) (i) T was in pensionable employment on 6th April 1988 or paying contributions under regulation 30 of TSR 1976 on that date, or
- (ii) T re-entered pensionable employment after 6th April 1988, having previously been in such employment, and
- (b) (i) T has retirement benefits qualification service of at least 2 years attributable to a period of employment after 5th April 1988, or
- (ii) the sum of T’s retirement benefits qualification service attributable to a period of employment after 5th April 1988 and of the periods mentioned in Schedule 9 of TSR 1988 attributable to a period of T’s employment before 6th April 1988 amounts to at least 5 years.

(6) For the purpose of Condition 3, any period of employment in respect of which the Secretary of State accepted a transfer value when T re-entered pensionable employment after 5th April 1988 is to be treated as taking place after that date.

(7) Paragraph (6) does not apply to—

- (a) a period of comparable British service, or
- (b) a period of employment pensionable under the National Health Service Pension Scheme Regulations 1995(1) in respect of which a transfer value was accepted in accordance with arrangements made for a person to whom Part 6 of Schedule 10 to TPR 1997 (which continues to have effect by virtue of paragraph 26 of Schedule 13) applies.

- (8) Condition 4 is that—
- (a) T has a guaranteed minimum in relation to benefits under these Regulations, and
 - (b) the Secretary of State has not paid a contributions equivalent premium in respect of T.
- (9) Condition 5 is that the Secretary of State—
- (a) paid a cash equivalent or a transfer value in respect of T to the pension scheme of the Commission of the European Communities, and
 - (b) has since accepted a transfer value from that scheme in respect of T.
- (10) Condition 6 is that the Secretary of State has accepted a transfer value in respect of T's rights under a personal pension scheme.

Retirement benefits qualification service

55.—(1) The retirement benefits qualification service of a person (T) is the total of the following—

- (a) any period spent by T in pensionable employment;
 - (b) any period counting as reckonable service under regulation 41(1)(c),(d),(e) or (f) (reckonable service);
 - (c) any period of employment in respect of which the Secretary of State has accepted a transfer value;
 - (d) any period of comparable British service;
 - (e) any period of admitted service;
 - (f) any period of specified country service;
 - (g) any period of employment which is pensionable for the purposes of the Universities Superannuation Scheme⁽²⁾;
 - (h) where T was given, but did not take, the opportunity to transfer T's past service pension rights under regulation 36, any period of employment which would have counted as T's retirement benefits qualification service under sub-paragraph (c) if the transfer value in respect of such rights had been accepted by the Secretary of State.
- (2) But T's retirement benefits qualification service does not include—
- (a) any contributions refund period;
 - (b) any period in respect of which a transfer value has been paid;
 - (c) any period in respect of which a cash equivalent has been paid.

Meaning of “qualified for retirement benefits following further employment”

56. A person is “qualified for retirement benefits following further employment” for the purpose of these Regulations if, after the person last enters further employment, the person is in pensionable employment for at least 12 months.

(2) The Universities Superannuation Scheme was established by a Declaration of Trust of 2nd December 1974 and is currently governed by a Declaration of Trust of 7th February 1994 and the rules adopted by the Deed of Consolidation of 1st October 2003 and subsequently amended by deeds of amendment.

CHAPTER 4

Phased retirement and retirement benefits

Election to receive phased retirement benefits

- 57.—(1) This paragraph applies to a person (P) if—
- (a) P is qualified for retirement benefits or qualified for retirement benefits following further employment,
 - (b) P is 55 or over and under 75, and
 - (c) P satisfies Condition 1 or Condition 2.
- (2) Condition 1 is that—
- (a) P is in pensionable or excluded employment, and
 - (b) there is a reduction in P’s contributable salary in that employment (“the reduced salary”) such that the annual rate of the reduced salary does not exceed 80% of the average annual rate of P’s contributable salary during the 6 months before the reduction.
- (3) For the purpose of calculating the annual rate of the reduced salary, any standard increase taking effect on the day when P’s employment at the new contributable salary starts must be ignored.
- (4) Condition 2 is that—
- (a) after reaching the age of 55, P ceases to be in pensionable or excluded employment (“the previous employment”),
 - (b) within 6 months of the last day of the previous employment, P enters employment in a capacity mentioned in Schedule 2 or an employment which falls within paragraph (5) (“the new employment”), and
 - (c) the annual rate of P’s contributable salary in the new employment does not exceed 80% of the average annual rate of P’s contributable salary during the last 6 months of the previous employment.
- (5) An employment falls within this paragraph if—
- (a) P is employed by a person whose employment of P as a teacher would be employment in a capacity mentioned in Schedule 2,
 - (b) P’s normal duties in the employment include providing education or services ancillary to education other than administrative services, and
 - (c) where P is employed by a function provider, P’s duties relate to the functions or services in respect of which the function provider is accepted in accordance with regulation 14.
- (6) For the purpose of calculating the annual rate of P’s contributable salary in the new employment, any standard increase taking effect after the last day of the previous employment must be ignored.
- (7) A person (P) to whom paragraph (1) applies may elect to receive phased retirement benefits by giving written notice to the Secretary of State within 3 months after the relevant date.
- (8) An election under paragraph (7) may not be made—
- (a) on more than two occasions, or
 - (b) if P makes an application under regulation 107 (payment of benefits on application to Secretary of State) for retirement benefits.
- (9) The relevant date is—
- (a) where P satisfies Condition 1, the date on which the reduction in contributable salary takes effect, or

- (b) where P satisfies Condition 2, the date on which P enters the new employment.
- (10) The notice must be accompanied by—
 - (a) where P satisfies Condition 1, a certificate by P’s employer as to the matters mentioned in paragraph (2)(b), or
 - (b) where P satisfies Condition 2, a certificate by P’s employer in the new employment as to the matters mentioned in paragraph (4)(c).
- (11) But if P’s employer in the previous employment does not provide P’s employer in the new employment with the information necessary to provide the certificate, the Secretary of State may determine that paragraph (10)(b) is not to apply.
- (12) The notice must specify—
 - (a) a fraction, not exceeding 0.75, of P’s NPA 60 reckonable service, and
 - (b) a fraction, not exceeding 0.75, of P’s NPA 65 reckonable service.
- (13) In this regulation—
 - (a) a reference to a person’s contributable salary includes, in the case of a person who is in employment other than pensionable employment, a reference to the salary which would be the person’s contributable salary if that employment were pensionable employment;
 - (b) “standard increase” means an increase in contributable salary which is applied generally to persons in the position of the employee in question in accordance with an order made under section 122 of EA 2002 or, where the employee is not a school teacher for the purposes of that section, by the employer;
 - (c) where—
 - (i) ill-health retirement benefits were payable to P under regulation E8 of TPR 1997, and
 - (ii) P subsequently re-enters pensionable employment
 P’s reckonable service excludes any increase in reckonable service under regulation E8(2) to (6) of TPR 1997 arising from the payment of those ill health retirement benefits.

Phased retirement benefits

- 58.**—(1) This regulation applies where a person (P) makes an election under regulation 57 (election to receive phased retirement benefits).
- (2) A phased retirement pension is payable to P from the relevant date.
 - (3) Except as otherwise provided in these Regulations, the pension is payable for life.
 - (4) If P is a pre-2007 entrant or a person with mixed service, a phased retirement lump sum is payable to P on the relevant date.
 - (5) The annual rate of a phased retirement pension and the amount of any phased retirement lump sum are to be calculated in accordance with regulations 61 (annual rate of phased retirement and retirement pension) and 62 (amount of phased retirement and retirement lump sum) except as provided in the following paragraphs.
 - (6) P’s average salary must be calculated as if P’s average salary service ended on the date of change.
 - (7) Where the election under regulation 57 (election to receive phased benefits) is P’s first—
 - (a) a reference to P’s NPA 60 reckonable service to which a Case applies must be taken to be a reference to P’s NPA 60 reckonable service up to and including the date of change multiplied by the fraction specified in the notice of the election in accordance with regulation 57(12)(a);

- (b) a reference to P's NPA 65 reckonable service to which a Case applies must be taken to be a reference to P's NPA 65 reckonable service up to and including the date of change multiplied by the fraction specified in the notice in accordance with regulation 57(12)(b).
- (8) Where the election under regulation 57 is P's second—
 - (a) a reference to P's NPA 60 reckonable service to which a Case applies must be taken to be a reference to—
 - (i) P's NPA 60 reckonable service up to and including the date of change multiplied by the fraction specified in the notice of the election in accordance with regulation 57(12)(a), less
 - (ii) the amount of P's NPA 60 reckonable service calculated in accordance with paragraph (7)(a) of this regulation;
 - (b) a reference to P's NPA 65 reckonable service must be taken to be a reference to—
 - (i) P's NPA 65 reckonable service up to and including the date of change multiplied by the fraction specified in the notice in accordance with regulation 57(12)(b), less
 - (ii) the amount of P's NPA 65 reckonable service calculated in accordance with paragraph (7)(b) of this regulation.
- (9) In this regulation—
 - “contributable salary” is to be construed in accordance with regulation 57 (election to receive phased retirement benefits);
 - “date of change” in relation to an election under regulation 57 means—
 - (a) where a person satisfies Condition 1 of that regulation, the day before the date on which the reduction in contributable salary takes effect, or
 - (b) where a person satisfies Condition 2 of that regulation, the date on which the person ceases to be in the previous employment;
 - “reckonable service” excludes any increase in reckonable service under regulation E8(2) to (6) of TPR 1997 referred to in regulation 57(13)(c);
 - “relevant date” has the same meaning as in regulation 57(9).

Cessation of phased retirement pension

- 59.**—(1) A phased retirement pension ceases to be payable to a person (P) from the date on which, following an increase in contributable salary other than a standard increase, the annual rate of P's contributable salary during the 12 months beginning on the relevant date exceeds 80% of—
- (a) where P satisfied Condition 1 of regulation 57 (election to receive phased retirement benefits) when making the election (“the failed election”), the average annual rate of P's contributable salary during the 6 months before the reduction mentioned in paragraph (2) (b) of that regulation, or
 - (b) where P satisfied Condition 2 of that regulation when making the failed election, the average annual rate of P's contributable salary in the last 6 months of the previous employment.
- (2) Where a pension ceases to be payable in accordance with paragraph (1)—
- (a) the failed election is to be taken into account in determining for the purpose of regulation 57(8) (election to receive phased retirement benefits) the number of occasions on which P makes an election under that regulation;
 - (b) if P makes a subsequent election under regulation 57—

- (i) the subsequent election is to be treated as P's first for the purpose of regulation 57(7) (election to receive phased retirement benefits),
 - (ii) the notice under regulation 57(12) (election to receive phased retirement benefits) in respect of the subsequent election must specify the same or a greater fraction of P's NPA 60 and NPA 65 reckonable service as was specified in the notice of the failed election, and
 - (iii) where P made an election to receive an additional pension with the failed election under regulation 73 (election to receive additional pension with phased retirement pension), P must make such an election with the subsequent election.
- (3) In this regulation—
- “contributable salary” is to be construed in accordance with regulation 57;
 - “relevant date” has the same meaning as in regulation 57(9);
 - “standard increase” means an increase in contributable salary which—
- (a) is applied generally to persons in the position of the employee in question in accordance with an order made under section 122 of EA 2002 or, where the employee is not a school teacher for the purposes of that section, by the employer, and
 - (b) is unrelated to any change in the employee's duties or hours of work or otherwise to the particular circumstances of the employee's case.

Retirement benefits

60.—(1) A person (P) falls within this paragraph if P satisfies either the condition for retirement or the condition for retirement following further employment.

- (2) P satisfies the condition for retirement if—
 - (a) P is qualified for retirement benefits, and
 - (b) a Case applies to P's reckonable service or, if P is a person with mixed service, to part of P's reckonable service.
- (3) P satisfies the condition for retirement following further employment if—
 - (a) P is qualified for retirement benefits following further employment,
 - (b) a Case applies to P's reckonable service or, if P is a person with mixed service, to part of P's reckonable service,
 - (c) where P is under 75, P makes an application under regulation 107 (payment of benefits on application to Secretary of State) for benefits under this regulation, and
 - (d) after making the application, P does not re-enter pensionable employment before the day which would be the entitlement day if P were to satisfy the condition for retirement following further employment.
- (4) A retirement pension is payable to a person (P) who falls within paragraph (1) from the entitlement day.
- (5) Except as otherwise provided in these Regulations, the pension is payable for life.
- (6) Where P is a pre-2007 entrant or a person with mixed service, a retirement lump sum is payable to P on the entitlement day, but this paragraph is subject to regulation 124 (general prohibition on unauthorised payments).
- (7) The annual rate of the retirement pension and the amount of any retirement lump sum are to be calculated in accordance with regulations 61 (annual rate of phased retirement and retirement pension) and 62 (amount of phased retirement and retirement lump sum).
- (8) The entitlement day is the entitlement day for the Case which applies to P's reckonable service.

(9) If P is a person with mixed service and Case A applies to P's NPA 60 reckonable service and another Case applies to P's NPA 65 reckonable service—

- (a) the entitlement day for that part of P's retirement pension mentioned in regulation 61(5)(a), (c) and (d) (annual rate of phased retirement and retirement pension) and for P's retirement lump sum is the entitlement day for Case A, and
- (b) the entitlement day for that part of P's retirement pension mentioned in regulation 61(5)(b) is the entitlement day for the Case which applies to P's NPA 65 service.

(10) Schedule 7 (retirement benefits) has effect for the purpose of determining whether a Case applies to P's reckonable service and, if so, the entitlement day for the Case.

(11) In these Regulations references to a Case followed by a letter are references to the relevant case as specified in Schedule 7.

Annual rate of phased retirement and retirement pension

61.—(1) This regulation applies for calculating the annual rate of phased retirement and retirement pensions.

(2) The annual rate of the pension of a person (P) is the sum of the amounts mentioned in paragraph (5).

(3) But the annual rate of a retirement pension is SB-PRP if—

- (a) Case D applies to P's reckonable service or to part of P's reckonable service,
- (b) P has a guaranteed minimum in relation to employment before 6th April 1997, and
- (c) SB is greater than AR+PRP.

(4) In paragraph (3)—

AR is what the annual rate of P's retirement pension would be apart from paragraph (3);

PRP is the annual rate of any phased retirement pensions payable to P;

SB is the sum of the annual equivalent of P's guaranteed minimum and any equivalent pension benefits.

(5) The amounts are—

- (a) $1/80 \times P$'s average salary \times P's NPA 60 reckonable service to which a Case applies (in years and fractions of a year),
- (b) $1/60 \times P$'s average salary \times P's NPA 65 reckonable service to which a Case applies (in years and fractions of a year),
- (c) where a lump sum is not paid to P because of regulation 124 (general prohibition on unauthorised payments), but where it would otherwise be payable to P, such amount representing the value of that lump sum as the Secretary of State determines after taking advice from the scheme actuary, and
- (d) where the amount of a lump sum payable under regulation 62 (amount of phased retirement and retirement lump sum) ("the actual lump sum") is less than the amount which would, apart from paragraph (3) of that regulation, be payable ("the notional lump sum"), such amount representing the value of the difference between the notional lump sum and the actual lump sum as the Secretary of State determines after taking advice from the scheme actuary.

(6) The amount calculated in accordance with paragraph (5)(a) must be multiplied by the appropriate factor for a person with NPA 60 reckonable service—

- (a) where the pension is a phased retirement pension, if P is under 60 on the relevant date, and

- (b) where the pension is a retirement pension, if Case D or Case E applies to P's NPA 60 reckonable service.
- (7) The amount calculated in accordance with paragraph (5)(b) must be multiplied by the appropriate factor for a person with NPA 65 reckonable service—
 - (a) where the pension is a phased retirement pension, if P is under 65 on the relevant date, and
 - (b) where the pension is a retirement pension, if Case D or Case E applies to P's NPA 65 reckonable service.
- (8) Where P was in pensionable employment after reaching the age of 65, such part of the amount calculated in accordance with paragraph (5)(b) as relates to reckonable service before P reached that age must be multiplied by the factor specified in paragraph (9).
- (9) The factor is such factor relating to the length of the period (in years and complete months) between the date of P's 65th birthday and the entitlement day for that part of P's retirement pension mentioned in paragraph (5)(b) as the Secretary of State is to determine from time to time after taking advice from the scheme actuary.
- (10) For the purpose of paragraph (8), where a transfer value other than one from a comparable United Kingdom scheme is accepted after P is 65, the reckonable service attributable to the transfer value is to be treated as being after P reached that age.
- (11) In this regulation—
 - (a) "relevant date" has the same meaning as in regulation 57(9) (election to receive phased retirement benefits), and
 - (b) the "entitlement day" means the entitlement day referred to in regulation 60 (retirement benefits).
- (12) The annual rate of a retirement pension is subject to paragraph 23 of Schedule 13 (National Insurance modification of pensions).

Amount of phased retirement and retirement lump sum

- 62.**—(1) This regulation applies for calculating the amount of phased retirement and retirement lump sums.
- (2) The amount of the lump sum of a person (P) is the amount mentioned in paragraph (4) less the total of the benefits mentioned in paragraph (5) previously payable to P other than any already deducted in the calculation of a lump sum (whether under this regulation or regulation 117(5) (person to be treated as electing to receive lump sum in place of pension))
- (3) But no lump sum may exceed P's permitted maximum.
- (4) The amount is $\frac{3}{80} \times P$'s average salary \times P's NPA 60 reckonable service to which a Case applies (in years and fractions of a year).
- (5) The benefits are—
 - (a) any phased retirement lump sum in a case where the phased retirement pension payable with the lump sum ceased to be payable under regulation 59 (cessation of phased retirement pension);
 - (b) any ill-health lump sum;
 - (c) any total incapacity lump sum;
 - (d) any lump sum under regulation 116 (election to receive lump sum in place of pension) other than a lump sum attributable to—
 - (i) a phased retirement pension except where the pension ceased to be payable under regulation 59 (cessation of phased retirement pension), or

- (ii) an additional pension;
- (e) any short-service incapacity grant, in a case where, after the grant became payable, P re-entered pensionable employment before 1st September 2010.
- (6) The amount calculated in accordance with paragraph (4) must be multiplied by the appropriate factor for a person with NPA 60 reckonable service—
 - (a) where the lump sum is a phased retirement lump sum, if P is under 60 on the relevant date;
 - (b) where the lump sum is a retirement lump sum, if Case D or Case E applies to P’s NPA 60 reckonable service.
- (7) In this regulation—
 - “permitted maximum” must be construed in accordance with paragraph 2 of Schedule 29 to FA 2004;
 - “relevant date” has the same meaning as in regulation 57(9) (election to receive phased benefits).

Reduction of benefits: duplicate pensions

- 63.**—(1) This regulation applies where a person’s reckonable service is attributable to a period of employment which counts towards both—
- (a) phased retirement benefits or retirement benefits under these Regulations, and
 - (b) a benefit (other than a benefit under these Regulations) payable directly or indirectly out of moneys provided by Parliament or from council tax levied by local authorities.
- (2) But this regulation does not apply where the other benefit—
- (a) is subject to reduction under regulation 142 of the Local Government Pension Scheme Regulations 1997⁽³⁾, or
 - (b) is payable under regulation 7 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations⁽⁴⁾ 1997.
- (3) Except as provided in paragraphs (4) and (5), the person’s phased retirement benefits or retirement benefits must be reduced by so much as is necessary to secure that A is reduced by B.
- (4) A must not be reduced to less than C.
- (5) A phased retirement pension or retirement pension must not be reduced so that so much of it as is attributable to the double period is below the rate of any equivalent pension benefits attributable to that period.
- (6) In the case of a pension, the reduction must be applied to the amounts in paragraph (5) (a) and (b) of regulation 61 (annual rate of phased retirement and retirement pension) before any multiplication under paragraphs (6), (7) or (8) of that regulation.
- (7) In the case of a lump sum, the reduction must be applied to the amount in paragraph (4) of regulation 62 (amount of phased retirement and retirement lump sum) before any multiplication under paragraph (6) of that regulation.
- (8) In this regulation—
- A is the actuarial value of the phased retirement or retirement benefits attributable to the double period;
 - B is the actuarial value of the other benefit attributable to the double period;
 - C is the actuarial value of the sum of—

⁽³⁾ S.I. 1997/1612 revoked but with savings by S.I. 2008/238.

⁽⁴⁾ S.I. 1997/311

- (a) the amount of contributions (including any paid under regulation C9 of TPR 1997 or regulation 19) paid by the person in respect of the double period, and
- (b) interest on those contributions at 3% per annum compounded with yearly rests from the first day of the financial year following that in which the contributions were paid to the date on which retirement benefits became payable to the person;

the “double period” means the period mentioned in paragraph (1);

“local authority” includes a non-metropolitan district council for an area for which there is a county council;

the “other benefit” means the benefit mentioned in paragraph (1)(b) and includes any sum payable, whether as a continuing allowance or as a lump sum, by way of pension, superannuation allowance, compensation for loss of office or otherwise in respect of retirement.

Abatement of retirement pension during further employment

64.—(1) This regulation applies while a person (P) falling within paragraph (2) is employed—

- (a) in pensionable employment, comparable British service or employment which would have been pensionable but for—
 - (i) P having made an election under regulation 9 (election for employment not to be pensionable), or
 - (ii) P having reached the age of 75,
- (b) in part-time employment in a capacity described in paragraphs 1,2 and 4 to 9 of Schedule 2 which is not pensionable employment by reason of the fact that the employment falls within regulation 7(6), but has not made an election under regulation 10(1) (election for employment to be pensionable), or
- (c) in full-time employment which is not pensionable employment by reason of the fact that the employment falls within regulation 7(8), but has not made an election under regulation 10(2)(d).

(2) P falls within this paragraph if—

- (a) retirement benefits have become payable to P, or
- (b) P has elected to receive phased retirement benefits, and neither paragraph (6) nor paragraph (7) of regulation 61 (multiplication of pension by appropriate factor) apply in relation to the phased retirement pension.

(3) But this regulation does not apply in respect of a pension (or part of a pension) which is payable to the person by reason of Case E applying to the person’s reckonable service.

(4) If the person is concurrently both in employment falling within paragraph (1)(a) and in employment falling within paragraph (1)(b), this regulation applies only in respect of the former.

(5) Where this regulation applies—

- (a) if the amount of the person’s salary in the employment during the tax year equals or exceeds the person’s adjusted salary of reference in any tax year, no pension is to be paid in that tax year; and
- (b) in any other case, the pension to which the person is entitled in any tax year is to be reduced if necessary so as to secure that the pension paid during that tax year does not exceed (A x P/Q),

where—

A is the amount by which the person's salary in the employment during the tax year falls short of that person's adjusted salary of reference,

P is the full annual rate of the person's pension during the tax year in question as increased under PIA 1971 but disregarding the effect of paragraphs (10) or (11), and

Q is the total of—

- (i) the full annual rate of the person's pension,
- (ii) the full annual rate of compensation payable under regulation 7 (mandatory compensation for premature retirement) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997(5), and
- (iii) the full annual rate of all compensation payable under regulation 12 (discretionary compensation for premature retirement) of those Regulations,

for the tax year in question, as increased under PIA 1971.

(6) In paragraph (5), the adjusted salary of reference is, or where the person's previous employment was part time, the full time equivalent of—

- (a) the highest salary taken into account in determining the person's average salary under regulation 37 or 38, multiplied by the adjustment factor, or
- (b) (if applicable) the highest salary taken into account in determining the person's average salary under regulation 37 or 38 relating to the person's further employment, multiplied by the adjustment factor,

whichever is the higher.

(7) For the purpose of paragraph (6) the adjustment factor is the amount (if any) by which, immediately before the first day of the employment, any salary referred to in paragraph (6) would have increased if it had been the annual rate of an official pension as defined in section 5(1) of PIA 1971 beginning, and first qualifying for increases under that Act, on the same date as—

- (a) the last day of employment at that salary, in a case where the person's average salary was determined under regulation 37, or
- (b) the pension, in a case where the person's average salary was determined under regulation 38.

(8) Where a pension falls to be reduced under paragraph (5)(b) in any tax year, the Secretary of State is to pay the pension in accordance with regulation 109 (monthly payments) or regulation 110 (quarterly payments) at the rate which is appropriate without taking account of the reduction until the amount to which the pension is to be reduced (on the assumption that the person will remain in employment at the same salary for the remainder of the tax year) has been paid.

(9) Once the appropriate amount of pension has been paid as mentioned in paragraph (8), no further payment is to be made during that tax year unless the person ceases to be in the employment or is in employment at a lower salary in which case the Secretary of State is to pay pension during the remainder of the tax year to the person of such amount and at such times as is necessary in order to secure the result described in paragraph (5).

(10) Where the actual pension paid in any tax year has exceeded the amount which should have been paid by virtue of paragraph (5) ("the excess payment") the pension payable in the subsequent tax year is to be reduced by the excess payment.

(11) In paragraphs (5) and (7) to (10) "pension" means the aggregate of a person's retirement pension (other than a pension or part of a pension referred to in paragraph (3)) and any phased retirement pension, additional pension or total incapacity pension paid with that pension.

CHAPTER 5

Total incapacity benefits and cessation of ill health pensions etc.

Total incapacity benefits

- 65.**—(1) This regulation applies where—
- (a) an ill-health pension becomes payable to a person (P) because P satisfies Conditions 1, 2 and 3 set out in paragraph 3 of Schedule 7 (Case C: ill-health retirement), and
 - (b) P satisfies Conditions A and B.
- (2) P satisfies Condition A if P’s ability to carry out any work is impaired by more than 90% and is likely to be impaired by more than 90% permanently.
- (3) P satisfies Condition B if immediately before satisfying Condition A—
- (a) P was in pensionable employment,
 - (b) P was paying contributions under regulation C9 of TPR 1997 or regulation 19 (election to pay contributions by a person serving in a reserve force), or
 - (c) P was taking a period of non-pensionable sick leave, a period of non-pensionable family leave or a career break which, in every case, followed on immediately after a period of pensionable employment.
- (4) A total incapacity pension is payable to P from the entitlement day.
- (5) Except as otherwise provided in these Regulations, the total incapacity pension is payable for life.
- (6) Where P is a pre-2007 entrant, a total incapacity lump sum is payable to P on the entitlement day.
- (7) The annual rate of the pension and the amount of the lump sum are to be calculated in accordance with regulation 66 (annual rate of total incapacity pension and amount of total incapacity lump sum).
- (8) The entitlement day is the date on which the ill-health pension mentioned in paragraph (1) becomes payable to P.

Annual rate of total incapacity pension and amount of total incapacity lump sum

- 66.**—(1) The annual rate of the total incapacity pension of a person (P) is the sum of—
- (a) the appropriate fraction x P’s average salary x P’s added service (in years and fractions of a year),
 - (b) where the amount of a lump sum paid (“the actual lump sum”) is less than the amount which would, apart from paragraph (3), be payable (“the notional lump sum”), such amount representing the value of the difference between the notional lump sum and the actual lump sum as the Secretary of State determines after taking advice from the scheme actuary.
- (2) The total incapacity lump sum of a person (P) is $\frac{3}{80}$ x P’s average salary x P’s added service (in years) less any amount referred to in paragraph (4).
- (3) But no lump sum may exceed P’s permitted maximum.
- (4) Where the total of any benefits referred to in regulation 62(5) which fall to be deducted under regulation 62(2) from any lump sum exceeds the total of—
- (a) any ill health lump sums, previously paid or payable at the same time as the total incapacity lump sum, and

- (b) any total incapacity lump sum previously paid

the balance is to be deducted from the total incapacity lump sum.

- (5) The appropriate fraction is—

- (a) where P is a pre-2007 entrant, 1/80, and
- (b) where P is a person with mixed service or a 2007 or later entrant, 1/60.

(6) P's added service is one half of the period beginning on the entitlement day and ending on the date on which P reaches—

- (a) where P is a pre-2007 entrant, the age of 60, or
- (b) where P is a person with mixed service or a 2007 or later entrant, the age of 65.

- (7) The entitlement day has the same meaning as in regulation 65 (total incapacity benefits).

Cessation of total incapacity pension

67.—(1) A total incapacity pension ceases to be payable to a person (P) if P's ability to carry out any work ceases to be impaired by more than 90%.

- (2) Paragraph (1) does not apply if P has reached—

- (a) where P is a pre-2007 entrant, the age of 60, or
- (b) where P is a person with mixed service or a 2007 or later entrant, the age of 65.

(3) For the purpose of paragraph (1), P's ability to carry out any work is to be treated as ceasing to be impaired by more than 90% on the earliest of the following—

- (a) the date on which P enters employment in a capacity mentioned in Schedule 2 (pensionable employment);
- (b) the date on which P engages in work as a teacher (not being employment in such a capacity);
- (c) the date on which P engages in any other form of work unless—
 - (i) P provides the Secretary of State with a certificate from a registered medical practitioner that, in the opinion of the practitioner, P continues to satisfy Condition A set out in regulation 65 (total incapacity benefits) despite engaging in such work, and
 - (ii) the Secretary of State determines that P continues to satisfy that Condition despite engaging in such work.

Cessation and reinstatement of ill-health pension (application received before 6th January 2007)

- 68.**—(1) This regulation applies to—

- (a) an ill-health pension which became payable to a person (P) following an application received by the Secretary of State before 6th January 2007, and
- (b) a pension which becomes payable in accordance with paragraph (5).

- (2) A pension to which this regulation applies ceases to be payable if P—

- (a) enters full-time employment in a capacity mentioned in Schedule 2, where the pension became payable before 1st April 1997,
- (b) enters full-time or part-time employment in a capacity mentioned in Schedule 2, where the pension became payable on or after 1st April 1997, or
- (c) otherwise ceases to be incapacitated.

- (3) Paragraph (2) does not apply if P has reached the age of 60.

- (4) Despite paragraph (2), any equivalent pension benefits continue to be payable.
- (5) Where—
 - (a) a pension has ceased to be payable in accordance with paragraph (2), and
 - (b) P has not been in pensionable employment at any time after the pension first became payable

the pension becomes payable again from the day on which P reaches the age of 60 or, if at an earlier date P satisfies condition 4 in paragraph 3(5) of Schedule 7 (ability to carry out work impaired by more than 90%), from that date.

Cessation of ill-health pension (application received on or after 6th January 2007)

69.—(1) This regulation applies to an ill-health pension to which regulation 68 (cessation and reinstatement of ill-health pension (application received before 6th January 2007)) does not apply.

(2) A pension to which this regulation applies ceases to be payable on the earlier of the following—

- (a) the date on which the person to whom it is payable (P) enters employment in a capacity mentioned in Schedule 2;
 - (b) the date on which P engages in paid or unpaid work as a teacher (not being employment in such a capacity).
- (3) Paragraph (2) does not apply where P is—
- (a) a pre-2007 entrant who has reached the age of 60, or
 - (b) a person with mixed service or a 2007 or later entrant who has reached the age of 65.
- (4) Despite paragraph (2)—
- (a) any equivalent pension benefits continue to be payable, and
 - (b) where P is a person with mixed service who has reached the age of 60 but not the age of 65, that part of the ill-health pension mentioned in regulation 61(5)(a) and (d) (annual rate of phased retirement and retirement pension) continues to be payable.

Calculation of retirement benefits after ill-health pension ceases to be payable

70.—(1) This regulation applies for calculating the retirement benefits of a person (P) if—

- (a) the retirement pension which most recently became payable to P (“the previous pension”) was an ill-health pension,
- (b) the previous pension ceased to be payable under regulation 68 (cessation and reinstatement of ill-health pension (application received before 6th January 2007) or 69 (cessation of ill-health pension (application received on or after 6th January 2007)), and
- (c) P re-entered pensionable employment.

(2) The annual rate of the retirement pension is made up of—

- (a) the annual rate of any ill-health pension which became payable before the previous pension and was calculated using an average salary greater than the previous average salary, and
- (b) the annual rate of a pension calculated in accordance with regulation 61 (annual rate of phased retirement and retirement pension) except as provided in paragraph (4) and (5).

(3) The amount of any retirement lump sum is the amount of a lump sum calculated in accordance with regulation 62 (amount of phased retirement and retirement lump sum) except as provided in paragraphs (4) and (5).

(4) In regulations 61 (annual rate of phased retirement pension and retirement pension) and 62 (amount of phased retirement lump sum and retirement lump sum) references to P's reckonable service must be taken to—

- (a) exclude reckonable service used in the calculation of any pension mentioned in paragraph (2)(a), but
- (b) where the previous pension became payable to P following an application received by the Secretary of State before 6th January 2007, include any enhanced period determined in accordance with regulation 71.

(5) Where P's average salary on the date on which retirement benefits become payable ("the final average salary") is less than the average salary at the date on which the previous pension became payable ("the earlier average salary") then the average salary for the purposes of regulations 61 and 62 is—

- (a) the earlier average salary, in relation to P's reckonable service used in the calculation of P's previous pension, and
- (b) the final average salary in relation to the balance of P's reckonable service.

(6) For the purposes of paragraph (5) P's reckonable service used in the calculation of P's previous pension does not include any increase in reckonable service under regulation E8 of TPR 1997, or regulation 71.

(7) Where paragraph (5) applies and any phased retirement pension is payable to P then for the purpose of paragraph 13 of Schedule 7—

- (a) where the phased retirement pension became payable before the previous pension became payable the reckonable service taken into account in the calculation of that phased retirement pension is to be treated as reckonable service referred to in paragraph (5)(a), and
- (b) where the phased retirement pension became payable after the previous pension became payable—
 - (i) the reckonable service taken into account in the calculation of that phased retirement pension is to be treated as reckonable service referred to in paragraph (5)(b), but
 - (ii) where the reckonable service taken into account in the calculation of that phased retirement pension is more than the reckonable service referred to in paragraph (5)(b)—
 - (aa) no reckonable service falls within paragraph (5)(b), and
 - (bb) the balance of reckonable service taken into account in the calculation of that phased retirement pension is to be treated as reckonable service referred to in paragraph (5)(a).

Calculation of retirement benefits after ill-health pension ceases to be payable: supplemental

71.—(1) This regulation applies where regulation 70(4)(b) applies.

(2) In this regulation—

- (a) "P's assumed pensionable employment end date" means the earlier of—
 - (i) the date on which the pensionable employment of a person (P) would have ended if the further employment in respect of which the pension is payable had begun on the date when P fell within Case C in regulation E4 of TPR 1997 (as a result of which the previous pension became payable), and
 - (ii) P's 60th birthday,
- (b) P's "relevant service" is so much of P's reckonable service as does not consist of periods—
 - (i) set out in sub-paragraphs (c) or (d) of regulation 41(1) (past added years), or

- (ii) which count as reckonable service by virtue of the application to P of regulation 7 of TPR 1976 (war service), and
 - (c) “the previous pension” is the previous pension referred to in regulation 70(1)(a).
- (3) For the purposes of this regulation, P is treated as having been in pensionable employment during any period during which P was paying contributions under regulation C9 of TPR 1997 or under regulation 19.
- (4) P’s reckonable service is treated as having been increased by the period specified in paragraph (4) or paragraph (5) (as appropriate) but this is subject to regulation 42(d) (limitation of reckonable service to 45 years).
- (5) If P’s relevant service is less than 10 years the period is the shorter of—
- (a) the length of relevant service, and
 - (b) the period beginning on P’s assumed pensionable employment end date and ending immediately before P’s 65th birthday.
- (6) If P’s relevant service is 10 years or more, the period is the longer of period A and period B.
- (7) Period A in paragraph (6) is the shortest of—
- (a) the period by which P’s relevant service falls short of 40 years,
 - (b) the period beginning on P’s assumed pensionable employment end date and ending immediately before P’s 60th birthday, and
 - (c) 6 years and 243 days.
- (8) Period B in paragraph (6) is so much of the period beginning on P’s assumed pensionable employment end date and ending immediately before P’s 65th birthday as would not cause P’s reckonable service to be increased to more than 20 years.
- (9) Where P is a person with relevant mixed service the increase in P’s reckonable service arising from this regulation is to be treated, for the purpose of regulation 48 (person with mixed service: meaning and normal pension age), as having occurred after the disqualifying break.
- (10) In paragraph (9) P is a person with relevant mixed service where—
- (a) the previous pensionable employment (which gave rise to the ill-health pension referred to in regulation 68 or 69) ceased before a disqualifying break, and
 - (b) P’s re-entry into pensionable employment referred to in regulation 70(1)(c) occurred after that disqualifying break.

Reduction of ill health pension and total incapacity pension

- 72.—**(1) This regulation applies where—
- (a) total incapacity benefits are payable to a person (P), and
 - (b) the ill health retirement benefits which are payable to P at the same time are increased pursuant to regulation 71.
- (2) If it appears to the Secretary of State that the total of P’s added service referred to in regulation 66 and any increased reckonable service referred to in regulation 71 is excessive in the light of the length of the period between the date on which the total incapacity benefits became payable to P and the date on which Case A would have applied to any of P’s reckonable service (if regulation 65 had not applied), the Secretary of State may determine that—
- (a) P’s total incapacity benefits, or
 - (b) that part of P’s ill health retirement benefits which arise from the application of regulation 71, or

- (c) both P's total incapacity benefits and the part of P's ill health retirement benefits referred to in sub-paragraph (b)

are to be reduced to such amount as the Secretary of State considers appropriate.

(3) The Secretary of State may not make a determination under paragraph (2) which would have the effect that the aggregate of the values of P's total incapacity benefits and P's ill health retirement benefits would be less than the aggregate of the values of—

- (a) P's incapacity benefits if they had not been reduced under this regulation, and
- (b) P's ill health retirement benefits if they had been calculated without any increase under regulation 71.

(4) The Secretary of State must take advice from the scheme actuary before making any determination under this regulation.

CHAPTER 6

Additional pensions

Election to receive additional pension with phased retirement pension

73.—(1) This regulation applies to the AP beneficiary of an AP election who makes an election to receive phased retirement benefits under regulation 57(7) (election to receive phased retirement benefits).

(2) A person to whom this regulation applies may elect to receive an additional pension with the phased retirement pension by giving written notice to the Secretary of State at the same time as the notice required under regulation 57(7).

(3) Where a person (P) makes an election under paragraph (2), an additional pension is payable to P in respect of each AP election of which P is an AP beneficiary from the entitlement day.

(4) The entitlement day is the day on which the phased retirement pension becomes payable.

(5) Except as otherwise provided in these Regulations, the additional pension is payable for life.

(6) The annual rate of the pension is the amount with which P is credited under Schedule 4 in respect of the AP election multiplied by the factor mentioned in paragraph (7), if that factor is greater than 1, and by the factor mentioned in paragraph (8).

(7) The factor is $RPI1/RPI2$, where—

RPI1 is the retail prices index for the penultimate month before the month which includes the day before the day on which the pension is deemed to begin for the purposes of PIA 1971 (see section 8(2) of that Act), and

RPI2 is the retail prices index for the month which includes the start date.

(8) The factor is—

- (a) where P is a pre-2007 entrant who has not reached the age of 60 by the entitlement day, the appropriate factor for a person with NPA 60 reckonable service;
- (b) where P is a pre-2007 entrant who has not reached the age of 65 by the entitlement day and the AP election was accepted after P reached the age of 60, the appropriate factor for a person with NPA 65 reckonable service;
- (c) where P is a person with mixed service who has not reached the age of 60 by the entitlement day and the AP election was accepted before P became a person with mixed service, the appropriate factor for a person with NPA 60 reckonable service;
- (d) where P is a person with mixed service who has not reached the age of 65 by the entitlement day and the AP election was accepted after P became a person with mixed service, the appropriate factor for a person with NPA 65 reckonable service;

- (e) where P is a 2007 or later entrant who has not reached the age of 65 by the entitlement day, the appropriate factor for a person with NPA 65 reckonable service;
- (f) in all other cases, 1.
- (9) In this regulation—
 - “AP election” means an election accepted by the Secretary of State under Schedule 4 (contributions for additional pension);
 - “AP beneficiary” has the same meaning as in Schedule 4;
 - “start date” has the same meaning as in Schedule 4.

Cessation of additional pension paid with phased retirement pension

74.—(1) This regulation applies where an additional pension becomes payable to a person with a phased retirement pension under regulation 73 (election to receive additional pension with phased retirement pension).

(2) Where the phased retirement pension ceases to be payable in accordance with regulation 59 (cessation of phased retirement pension), the additional pension also ceases to be payable from the same date.

Additional pension paid with retirement pension

75.—(1) This regulation applies to the AP beneficiary of one or more AP elections to whom a retirement pension becomes payable.

(2) An additional pension is payable to a person to whom this regulation applies (P) in respect of each AP election of which P is an AP beneficiary from the entitlement day.

(3) The entitlement day is the day on which the retirement pension becomes payable.

(4) If P is a person with mixed service and Case A applies to P’s NPA 60 reckonable service and another Case applies to P’s NPA 65 reckonable service—

- (a) the entitlement day for an additional pension in respect of an AP election accepted before P became a person with mixed service is the entitlement day for Case A, and
- (b) the entitlement day for an additional pension in respect of an AP election accepted after P became a person with mixed service is the entitlement day for the Case which applies to P’s NPA 65 reckonable service.

(5) Except as otherwise provided in these Regulations, the additional pension is payable for life.

(6) Paragraph (2) does not apply to an AP election if an additional pension attributable to the AP election is payable to P under regulation 73 (election to receive additional pension with phased retirement pension).

(7) Where—

- (a) P is a person with mixed service,
- (b) the retirement pension is payable because Case A applies to P’s NPA 60 reckonable service, and
- (c) no other Case applies to P’s NPA 65 reckonable service,

paragraph (2) does not apply to an AP election accepted after P became a person with mixed service.

(8) Where—

- (a) P is a person with mixed service, and
- (b) the retirement pension is payable because a Case applies to P’s NPA 65 reckonable service,

- (c) a retirement pension is payable to P because Case A applies to P's NPA 60 reckonable service (including a case where the rate of the pension has been reduced to zero under regulation 64 (abatement of retirement pension during further employment) or 121 (forfeiture of benefits)),

paragraph (2) does not apply to an AP election accepted before P became a person with mixed service.

(9) The annual rate of the pension is the amount with which P is credited under Schedule 4 in respect of the AP election multiplied by the factor mentioned in paragraph (10) if that factor is greater than 1 and by the factor mentioned in paragraph (11).

(10) The factor is $RPI1/RPI2$, where—

RPI1 is the retail prices index for the penultimate month before the month which includes the day before the day on which the pension is deemed to begin for the purposes of PIA 1971 (see section 8(2) of that Act), and

RPI2 is the retail prices index for the month which includes the start date.

(11) The factor is—

- (a) where P is a pre-2007 entrant and the retirement pension is payable because Case D or E applies to P's NPA 60 reckonable service, the appropriate factor for a person with NPA 60 reckonable service;
- (b) where P is a pre-2007 entrant who has not reached the age of 65 by the entitlement day and the AP election was accepted after P reached the age of 60, the appropriate factor for a person with NPA 65 reckonable service;
- (c) where P is a person with mixed service, the retirement pension is payable because Case D or E applies to P's NPA 60 reckonable service and the AP election was accepted before P became a person with mixed service, the appropriate factor for a person with NPA 60 reckonable service;
- (d) where P is a person with mixed service, the retirement pension is payable because Case D or E applies to P's NPA 65 reckonable service and the AP election was accepted after P became a person with mixed service, the appropriate factor for a person with NPA 65 reckonable service;
- (e) where P is a 2007 or later entrant, and the retirement pension is payable because Case D or E applies to P's NPA 65 reckonable service, the appropriate factor for a person with NPA 65 reckonable service;
- (f) in all other cases, 1.

(12) In this regulation—

“AP election” means an election accepted by the Secretary of State under Schedule 4 (contributions for additional pensions);

“AP beneficiary” has the same meaning as in Schedule 4;

“start date” has the same meaning as in Schedule 4.

Cessation of additional pension paid with ill-health pension

76.—(1) This regulation applies where an additional pension becomes payable to a person (P) with an ill-health pension under regulation 75 (additional pension paid with retirement pension).

(2) Where the ill-health pension, or a part of the ill-health pension, ceases to be payable under regulation 69 (cessation of ill-health pension (application received on or after 6th January 2007)), the additional pension also ceases to be payable on the same date.

(3) But where P is a person with mixed service who has reached the age of 60 but not the age of 65, paragraph (2) does not apply to an additional pension attributable to an AP election accepted before P became a person with mixed service.

(4) In paragraph (3) “AP election” has the same meaning as in regulation 75 (additional pension paid with retirement pension).

CHAPTER 7

Other benefits

Short-service annuity

77.—(1) This regulation applies where the contributions of a person who has not been in pensionable employment at any time after 5th April 1980 cannot be repaid under regulation 22(2) because the salary on which contributions were payable exceeded £5,000.

(2) A short-service annuity is payable to the person for life from the date of the person’s 60th birthday.

(3) The annual rate of the annuity is the actuarial equivalent of the person’s contributions (calculated in accordance with regulation 23) as at the date of the person’s 60th birthday.

Short-service annuity: unauthorised payments

78.—(1) This regulation applies where the repayment of a person’s contributions under regulation 22 is not made because of regulation 124 (general prohibition on unauthorised payments) but where the person would otherwise be entitled to repayment of contributions.

(2) A short-service annuity is payable to the person (P) from the date specified by P in P’s application which must be no earlier than 6 weeks after the date on which P’s application is made.

(3) Except as otherwise provided in these Regulations, the annuity is payable for life.

(4) The annual rate of the annuity is the actuarial equivalent of the contributions which would have been repaid.

Short-service serious ill -health grant

79.—(1) This regulation applies to a person (P) if—

- (a) P was in pensionable employment for at least 12 months,
- (b) P is not qualified for retirement benefits or qualified for retirement benefits following further employment,
- (c) P ceases to be in pensionable employment because P satisfies the incapacity condition,
- (d) P’s application under regulation 107 (payment of benefits on application to Secretary of State) is made within 6 months after the date on which P’s pensionable employment ceases, and
- (e) P has a life expectancy of less than a year.

(2) A short-service serious ill-health grant is payable to a person to whom this regulation applies.

(3) But no grant may be paid to a person who is 75 or over.

(4) The amount of the grant is P’s average salary/12 x P’s reckonable service (in years and fractions of a year).

(5) For the purpose of this regulation, a person satisfies the incapacity condition if the person is incapacitated and is likely to be incapacitated permanently.

Admitted service benefits

- 80.**—(1) This regulation applies to a person who falls within paragraph (2) or paragraph (3).
- (2) A person falls within this paragraph if—
- (a) the person has admitted service of any amount, and
 - (b) the person is qualified for retirement benefits.
- (3) A person falls within this paragraph if—
- (a) the person has admitted service of at least 5 years, but
 - (b) the person is not qualified for retirement benefits.
- (4) An admitted service pension is payable to a person to whom this regulation applies (P) from the entitlement day.
- (5) Except as otherwise provided in these Regulations, the pension is payable for life.
- (6) An admitted service lump sum is payable to P on the entitlement day.
- (7) Paragraph (6) does not apply if P complies with paragraphs (3) and (4) of regulation 107 (payment of benefits on application to Secretary of State) after P reaches the age of 75.
- (8) The entitlement day is—
- (a) where P falls within paragraph (2), the day on which P's retirement pension becomes payable, and
 - (b) where P falls within paragraph (3), the day of P's 60th birthday or, if P is in pensionable employment on P's 60th birthday, the day after P ceases to be in pensionable employment.
- (9) In these Regulations "admitted service" means service to which Part 8 of TSR 1967 applied immediately before 1st May 1975.

Annual rate of admitted service pension and amount of admitted service lump sum

- 81.**—(1) This regulation applies for calculating the annual rate of the admitted service pension and the amount of the admitted service lump sum of a person to whom regulation 80 (admitted service benefits) applies (P).
- (2) The annual rate of P's admitted service pension is the sum of—
- (a) $1/80 \times S \times AS + X/5$, and
 - (b) where an admitted service lump sum would, apart from regulation 80(7) be payable to P, such amount representing the value of that lump sum as the Secretary of State shall determine after taking advice from the scheme actuary.
- (3) The amount of P's admitted service lump sum is $1/30 \times S \times AS1 + 3/80 \times S \times AS2$.
- (4) The amounts calculated in accordance with paragraphs (2) and (3) must be multiplied by the appropriate factor for a person with NPA 60 reckonable service where—
- (a) P falls within paragraph (2) of regulation 80 (admitted service benefits), and
 - (b) P's retirement pension is paid because Case D or E applies to P's NPA 60 reckonable service.
- (5) In this regulation—
- AS is the length of P's admitted service (in years and fractions of a year);
- AS1 is the length of P's admitted service (in years and fractions of a year) before 1st April 1963;
- AS2 is the length of P's admitted service (in years and fractions of a year) after 31st March 1963;
- S is the average annual rate of P's salary during admitted service;

X is so much of $1/80 \times S \times AS$ as is attributable to admitted service before 1st April 1962.