

SCHEDULE 7

Regulation 60

Retirement benefits

Case A: retirement on or after reaching normal pension age

1.—(1) Where a person ceases to be in pensionable employment, Case A applies to so much of the person's reckonable service as is mentioned in sub-paragraph (2).

(2) The reckonable service is reckonable service in relation to which the person has reached the normal pension age.

2.—(1) Where a person (P) satisfies the condition for retirement, the entitlement day for Case A is—

- (a) if P is not in pensionable employment on the day on which P reaches the normal pension age in relation to the reckonable service, the day on which P reaches that age, and
- (b) if P is in pensionable employment on the day on which P reaches the normal pension age in relation to the reckonable service, the day after P ceases to be in pensionable employment.

(2) Where a person (P) satisfies the condition for retirement following further employment, the entitlement day for Case A is the earliest of the following—

- (a) if P is in pensionable or excluded employment on the day on which P makes an application under regulation 107, the day after the cessation of the employment;
- (b) if P is not in pensionable or excluded employment on the day on which P makes an application under regulation 107, such day as P specifies in the application, which must be no earlier than 6 weeks after the day on which P's application is made;
- (c) the date of P's 75th birthday.

Case C: ill-health retirement

3.—(1) Except as provided in paragraph 4, a person (P) falls within this paragraph if—

- (a) P was in pensionable employment at any time after 31st March 1972,
- (b) P ceases to be in pensionable employment, excluded employment, on non-pensionable sick leave, on non-pensionable family leave or on a career break,
- (c) P satisfies either Conditions 1, 2 and 3 or Condition 4, and
- (d) P makes an application under regulation 107 for retirement benefits on the basis that Case C, and no other Case (apart from Case A), applies to P's reckonable service.

(2) Condition 1 is that P is incapacitated and is likely to be incapacitated permanently.

(3) Condition 2 is that immediately before satisfying Condition 1—

- (a) P was in pensionable employment,
- (b) P was paying contributions under regulation C9 of TPR 1997, or
- (c) P was, with the consent of P's employer, on non-pensionable sick leave, on non-pensionable family leave or on a career break which, in every case, followed on immediately after a period of pensionable employment.

(4) Condition 3 is that P's application under regulation 107—

- (a) is made within 6 months after the end of pensionable employment, within 6 months after the end of the period in respect of which the contributions mentioned in sub-paragraph (3)
- (b) are paid or before the date on which, under the arrangements made with P's employer, the non-pensionable sick leave, non-pensionable family leave or career break ends, and

Status: This is the original version (as it was originally made).

(b) except where P satisfies Condition 2 because P falls within sub-paragraph (3)(b), is signed by P's employer.

(5) Condition 4 is that 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.

4.—(1) A person (P) does not fall within paragraph 3 if Condition A or Condition B applies.

(2) Condition A applies if a death grant may be paid under regulation 83 (death grant: death in service) or 85 (death grant: death out of service) on P's death (because P dies before payment of an ill-health pension is initiated).

(3) Condition B applies if—

- (a) a direction under section 142 of EA 2002 given on a ground mentioned in subsection (4) (a), (b) or (c) of that section has effect in respect of P,
- (b) the Secretary of State is considering giving such a direction in respect of P,
- (c) P is included, or is being considered for inclusion, in any of the lists mentioned in sub-paragraph (5), or
- (d) the General Teaching Council for England **(1)** or the General Teaching Council for Wales **(2)** makes, or is considering making, a prohibition order in relation to P on the grounds of unacceptable professional conduct or that P has been convicted of a relevant offence.

(4) But Condition B does not apply if the Secretary of State determines that the only reason for the direction or the direction being considered, for including, or considering including, P in any of the lists; or for making, or considering making, a prohibition order is unrelated to P's culpable behaviour.

(5) The lists are—

- (a) the children's barred list (established under section 2(1)(a) of SVGA 2006);
- (b) a list maintained under the law of Scotland or Northern Ireland which the Secretary of State specifies by order under section 3(2)(b) of SVGA 2006 as corresponding to the children's barred list;
- (c) the adults' barred list (established under section 2(1)(b) of SVGA 2006);
- (d) a list maintained under the law of Scotland or Northern Ireland which the Secretary of State specifies by order under section 3(3)(b) of SVGA 2006 as corresponding to the adults' barred list.

(6) In this paragraph "prohibition order", "relevant offence" and "unacceptable professional conduct" have the same meanings as in Schedule 2 to the Teaching and Higher Education Act 1998.

5.—(1) Where a person (P) falls within paragraph 3, Case C applies to P's reckonable service.

(2) But Case C does not apply to any of P's reckonable service in relation to which, on the day which would be the entitlement day if Case C were to apply to the reckonable service, P has reached the normal pension age.

6.—(1) The entitlement day for Case C is the latest of the following—

- (a) the day on which a person (P) first satisfies Condition 1 (where P satisfies Conditions 1, 2 and 3) or Condition 4 (where P does not satisfy Conditions 1, 2 and 3);

(1) The General Teaching Council for England was established pursuant to section 1 of the Teaching and Higher Education Act 1998 (c.30).

(2) The General Teaching Council for Wales was established pursuant to section 8 of the Teaching and Higher Education Act 1998 and S.I. 1998/2940.

- (b) the day after the day on which P ceases to be in pensionable employment, excluded employment, on non-pensionable sick leave, on non-pensionable family leave or on a career break;
 - (c) the day which occurs 6 months before the date of the medical report following consideration of which the Secretary of State determines that P satisfies Condition 1 (where P satisfies Conditions 1, 2 and 3) or Condition 4 (where P does not satisfy Conditions 1, 2 and 3).
- (2) But the entitlement day must not be before the date of any previous medical report following consideration of which the Secretary of State did not make the determination mentioned in sub-paragraph (1)(c).

Case D: premature retirement

7.—(1) A person (P) falls within this paragraph if—

- (a) P ceases to be in pensionable or excluded employment because P's employment is terminated by reason of P's redundancy or in the interests of the efficient discharge of P's employer's functions,
- (b) P is 55 or over on the date when P falls within paragraph (a),
- (c) P's employer gives written notice to the Secretary of State stating that—
 - (i) P's employment was terminated by reason of P's redundancy or in the interests of the efficient discharge of the employer's functions, and
 - (ii) the employer agrees that retirement benefits should become payable to P by virtue of P falling within this paragraph (as a result of which P will become entitled to lump sum and annual compensation under regulation 7 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997)(3)),
- (d) P receives no compensation under Part 3 of those Regulations as a result of the termination of the employment, and
- (e) P makes an application under regulation 107 for retirement benefits on the basis that Case D, and no other Case (apart from Case A), applies to P's reckonable service.

(2) Where P's employment falls within category A (as defined by regulation 3(7)(a) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997) and the governing body of the school or institution mentioned in that provision requests the local authority to do so, the authority must notify the Secretary of State as mentioned in sub-paragraph (1)(c).

8.—(1) Where a person (P) falls within paragraph 7, Case D applies to P's reckonable service.

(2) But Case D does not apply to any of P's reckonable service in relation to which, on the day which would be the entitlement day if Case D were to apply to the reckonable service, P has reached the normal pension age.

9. The entitlement day for Case D is the day after the cessation of the employment mentioned in paragraph 7(1)(a).

Case E: early retirement with actuarial adjustment

10.—(1) A person (P) falls within this paragraph if—

- (a) P was in pensionable or excluded employment at any time after 29th March 2000,
- (b) P ceases to be in such employment,

(3) [S.I 1997/311](#).

- (c) P is 55 or over,
 - (d) where P has equivalent pension benefits in respect of employment between 3rd April 1961 and 5th April 1975 or a guaranteed minimum pension in respect of employment before 6th April 1997 or both, the scheme actuary is of the opinion that the annual rate of P's retirement pension would, if this paragraph applied to P, equal or exceed the sum of any equivalent pension benefits and any guaranteed minimum pension, and
 - (e) P makes an application under regulation 107 for retirement benefits on the basis that Case E, and no other Case (apart from Case A), applies to P's reckonable service.
- (2) Sub-paragraph (1)(d) does not apply where a phased retirement pension or a retirement pension has previously become payable to P.

11.—(1) Where a person (P) falls within paragraph 10, Case E applies to P's reckonable service.

(2) But Case E does not apply to any of P's reckonable service in relation to which, on the day which would be the entitlement day if Case E were to apply to the reckonable service, P has reached the normal pension age.

12.—(1) Where a person (P) is not in pensionable or excluded employment on the day on which P makes the application mentioned in paragraph 10(1)(e), the entitlement day for Case E is such day as P may specify in P's application, which must be no earlier than 6 weeks after the day on which the application is made.

(2) Where a person (P) is in pensionable or excluded employment on the day on which P makes the application mentioned in paragraph 10(1)(e) and P's employer agrees that retirement benefits should become payable to P by virtue of P falling within paragraph 10, the entitlement day for Case E is the day after the cessation of the employment.

(3) Where a person (P) is in pensionable or excluded employment on the day on which P makes the application mentioned in paragraph 10(1)(e) and P's employer does not agree that retirement benefits should become payable to P by virtue of P falling within paragraph 10, the entitlement day for Case E is—

- (a) where P continues to be in the employment for at least 6 months after the date on which P asks P's employer to agree, the day after the cessation of that employment;
- (b) where P ceases to be in that employment before 6 months have expired since the date on which P asks P's employer to agree, such day as P specifies in the application, which must be no earlier than 6 weeks after the date on which P's application is made.

(4) Despite sub-paragraphs (1) to (3), the entitlement day for Case E cannot be before the day on which P falls within paragraph 10.

General

13. A Case does not apply to reckonable service taken into account in the calculation of a phased retirement pension except where the phased retirement pension has ceased to be payable under regulation 59 (cessation of phased retirement pension).

14. For the purpose of this Schedule—

- (a) a person is not to be treated as ceasing to be in pensionable or excluded employment unless at least one day passes without the person being in such employment after the person ceases to be in such employment;
- (b) a person who ceases to be in pensionable or excluded employment in the circumstances mentioned in regulation 33 (payment of bulk transfers) is not to be so treated if the person makes a written application for a transfer under paragraph (2) of that regulation;

- (c) a person who makes an election under regulation 57(7) (election to receive phased retirement benefits) after ceasing to be in pensionable or excluded employment is not, as a result of that cessation, to be treated as ceasing to be in such employment;
- (d) except for the purpose of paragraph 7, a person is to be treated as being in pensionable employment during a period in respect of which contributions under regulation 19 (election to pay contributions by a person serving in a reserve force) are paid.