

SCHEDULE 11

Regulation 138(1)

Amendments to the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994 and the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997

PART 1

The Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994

1. TSAVCR 1994 are amended in accordance with this Part.
2. For regulation 2(2) substitute—
 - “(2) In these Regulations—
 - (a) references to the 1999 Act are references to the Welfare Reform and Pensions Act 1999⁽¹⁾,
 - (b) references to the 2004 Act are references to the Finance Act 2004⁽²⁾,
 - (c) references to the 1989 Regulations are references to the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1989⁽³⁾,
 - (d) references to the 1997 Regulations are references to the Teachers' Pensions Regulations 1997⁽⁴⁾, and
 - (e) references to the 2010 Regulations are references to the Teachers' Pensions Regulations 2010.”.
3. In regulation 2(3)—
 - (a) in the definition of “civil partner”⁽⁵⁾ for “1997 ” substitute “2010”,
 - (b) for paragraph(b) of the definition of “dependant” substitute—
 - “(b) any person who is an eligible child as defined in regulation 93 of the 2010 Regulations; and”,
 - (c) in paragraph (c) of the definition of “dependant” for “E22A or E23 of the 1997 Regulations” substitute “90 or 91 of the 2010 Regulations”,
 - (d) in the definition of “ normal pension age”⁽⁶⁾ for “1997” substitute 2010,
 - (e) for the definition of “ old Regulation C9”⁽⁷⁾ substitute—
 - ““old regulation C9 of the 1997 regulations” means regulation C9 of the 1997 Regulations as it had effect before 1st January 2007 and—
 - (a) as it had effect from 1st January 2007 until 1st September 2010 by virtue of paragraphs 8 and 9 of Schedule 5 to the Teachers' Pensions etc.(Reform Amendments) Regulations 2006⁽⁸⁾, and
 - (b) as it has effect by virtue of paragraph 11 of Schedule 13 to the 2010 Regulations;”,

(1) 1999 c.30

(2) 2004 c.12

(3) S.I. 1989/946

(4) S.I. 1997/3001

(5) The definition of “civil partner” was inserted by S.I. 2005/2198.

(6) The definition of “normal pension age” was inserted by S.I. 2006/3122.

(7) The definition of “old regulation C 9” was inserted by S.I. 2008/541.

(8) S.I. 2006/3122

Status: This is the original version (as it was originally made).

- (f) in the definition of “pensionable employment” for “Part B of the 1997 Regulations” substitute “Part 2 of the 2010 Regulations”,
 - (g) in the definition of “reckonable service” for “D(1)(a) of the 1997 Regulations” substitute “41(1)(a) of the 2010 Regulations”,
 - (h) in paragraph (a) of the definition of “salary” for “C1 and C2 of the 1997” Regulations substitute “regulations 15 and 16 of the 2010 Regulations and regulation C2 of the 1997 Regulations as it has effect by virtue of paragraph 6 of Schedule 13 to the 2010 Regulations”, and
 - (i) in paragraph (b) of the definition of “salary”(9) for “old regulation C9 or regulation C10 of the 1997 Regulations” substitute “old regulation C9 of the 1997 Regulations or regulation 19 of the 2010 Regulations”.
4. In regulation 7(2)(c) for “old regulation C9 or regulation C10 of the 1997 Regulations” substitute “old regulation C9 of the 1997 Regulations or regulation 19 of the 2010 Regulations”.
5. In regulation 11(2)(b)(10) for “F1 or F1A of the 1997 Regulations” substitute “31 or 33 of the 2010 Regulations”.
6. In regulation 12(1)(b) for “becomes entitled to payment of retirement benefits under regulation E4 of the 1997 Regulations” substitute “satisfies the condition for retirement or the condition for retirement following further employment specified in regulation 60(2) or (3) of the 2010 Regulations”.
7. In regulation 13A(5)(11) for “child as defined in the 1997 Regulations” substitute “eligible child as defined in the 2010 Regulations”.
8. In regulation 15(1)(b) for “C15 of the 1997 Regulations” substitute “22 of the 2010 Regulations”.
9. In regulation 16(3) for “E20(7) of the 1997” Regulations substitute “82 of the 2010 Regulations”.

PART 2

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

10. The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 (12) are amended in accordance with this Part.
11. In regulation 2 in the definition of “the Pensions Regulations” for “1997” substitute “2010”
12. In regulation 3
- (a) in paragraph (3) for “1 (as read with regulation 10 of the School Standards and Framework Act 1998 (Modification) Regulations 1998, 1A, 4, 6, 7” substitute “1 or 6”
 - (b) for paragraph (4)(13) substitute—

“(4) Relevant employment is also employment as a teacher by a function provider in connection with the performance of a function in respect of which the function provider is accepted in accordance with regulation 14 of the 2010 Regulations.”.

(9) Paragraph (b) of the definition of “salary” was amended by [S.I. 2008/541](#).

(10) Regulation 11(2) was substituted by [S.I. 2006/2214](#).

(11) Regulation 13A was inserted by [S.I. 2000/3028](#).

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

(13) Regulation 3(4) was substituted by [S.I. 2000/664](#)

- (c) after paragraph (4) insert—

“(4A) Employment is also relevant employment where a person who has made an election under regulation B1A(4)(14) of the Teachers’ Pensions Regulation 1997 (provisions for certain organisers) remains employed by —

- (a) a local authority, or
- (b) a function provider in connection with the performance of a function in respect of which the function provider is accepted in accordance with regulation 14 of the Pensions Regulations (accepted function providers)

to undertake the same, or substantially the same, functions as the person was undertaking immediately before the date of the election, under either the same contract of employment or under a contract of employment which has effect by virtue of regulation 4 of the Transfer of Undertakings (Protection of Employment) Regulations 2006.”.

- (d) in paragraph (5)—

- (i) for “that Schedule” substitute “Schedule 2 to the Pensions Regulations”, and
- (ii) omit sub-paragraph (a), and

- (e) for paragraph (7)(c) substitute—

“(c) category C comprises relevant employment as a teacher by a function provider in connection with the performance of a function in respect of which the function provider is accepted in accordance with regulation 14 of the Pensions Regulations.

13. In regulation 4(7)—

- (a) in sub-paragraph (a) for “50” substitute “55”,

- (b) for sub-paragraph (b)(i) substitute—

“(i) he then had retirement benefits qualification service, within the meaning of regulation 55 of the Pensions Regulations, of at least 5 years, or”,

- (c) in sub-paragraph (b)(ii) for “B5” substitute “9”,

- (d) in sub-paragraph (b)(iii) for “B1(4) of the Pensions Regulations” substitute “10 of the Pensions Regulations (by virtue of falling within paragraph (2)(c) of that regulation)”,

- (e) for sub-paragraph (c) substitute—

“(c) retirement benefits have not become payable to the person by virtue of Case C (incapacity) applying to the person’s reckonable service”,

- (f) in sub-paragraph (e)(ii) for “under Case D in regulation E4(5) of the Pensions Regulations (premature retirement)” substitute “by virtue of falling within paragraph 7 of Schedule 7 to the Pensions Regulations (premature retirement) ”.

14. In regulation 7—

- (a) for paragraph (1) substitute—

“(1) A person to whom retirement benefits are payable by virtue of Case D (premature retirement) applying to that person and to whom—

- (a) regulations 61(6) and 62(6) of those Regulations (actuarial reduction of retirement pension and retirement lump sum) apply, or
- (b) regulation 61(7) of those Regulations (actuarial reduction of retirement pension) applies

(14) Regulation B1A was inserted by [S.I. 2004/587](#)

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

is entitled to lump sum compensation and to annual compensation under these Regulations.

- (b) in paragraph (2)—
 - (i) for “E6(5)” substitute “62(6)”, and
 - (ii) after “E15(4)” insert “of the Teachers’ Pensions Regulation 1997 (which has effect by virtue of paragraph 22 of Schedule 13 to the Pensions Regulations)”.
- (c) in paragraph (3)—
 - (i) after E15(4) ” insert “of the Teachers’ Pensions Regulation 1997 (which has effect by virtue of paragraph 22 of Schedule 13 to the Pensions Regulations)”.
 - (ii) for “E5(6)” substitute “61(6) or (7)”.
- (d) in paragraph (4) for “E1 or E5(9)” in both places where that expression occurs substitute “61(3) or 120”.

15. In regulation 8—

- (a) in paragraph (1) for “E14” substitute “64”, and
- (b) in paragraph (2) for “E14(3)(a)” substitute “64(5)(a)”.

16. For regulation 9 substitute—

“Supplementary death grants

9.—(1) This regulation applies where a death grant may be paid under regulation 87 of the Pensions Regulations.

(2) Where this regulation applies a further death grant may be paid by the compensating authority of A-B where—

A is 5 times the rate of annual compensation payable under regulation 7(3) at the date of the person’s death, and

B is the amount of compensation paid to the person since the compensation became payable.

(3) But where regulation 8 (abatement of annual compensation during further employment) applies any amount by which the annual rate of compensation is reduced is to be treated as being payable.”.

17. In regulation 10—

- (a) for paragraph (1) substitute—
 - “(1) This regulation applies where the amount of a person’s pension at the short- term rate payable under regulation 95 or 98 of the Pensions Regulations is reduced by virtue of the combined effect of —
 - (a) regulation 61(6) or (7), and
 - (b) regulation 95(2)(d) or 98(3)(d)
 of the Pensions Regulations.”.
- (b) in paragraph (2) for “ to whom the short-term pension is payable under regulation E24” substitute “to whom a pension is payable at the short-term rate under regulation 95 or 98 of the Pensions Regulations”.

18. In regulation 12(4)(c) and (5)(a) and (b) for “E5(6) or E6(5)” in each place where that expression occurs substitute “61(6) or (7) or 62(6)”.

19. For regulation 14(1) substitute—

- “(1) This regulation applies where a credited teacher dies and a pension—
- (a) becomes payable at the short-term rate under regulation 95 or 98 of the Pensions Regulations, or
 - (b) would have become so payable but for an election under regulation 9 of those Regulations.”.

20. For regulation 15(1) substitute—

- “(1) This regulation applies where a credited teacher dies and a pension —
- (a) becomes payable at the long-term rate under regulation 96 or 99 of the Pensions Regulations, or
 - (b) would have become so payable but for an election under regulation 9 of those Regulations. ”.

21. In regulation 22(6B) for “the accepted function provider (within the meaning of regulation B3A(1) of the Pensions Regulations” substitute “the function provider”.

22. In Schedule 2—

- (a) in paragraph 1 for “paragraph 28A of Part VI of Schedule 10 to the Pensions Regulations applies” substitute “regulation 81(4) of the Pensions Regulations applies by virtue of Case D applying to the person’s reckonable service”, and
- (b) for paragraphs 2 and 3 substitute—

“**2.** The rate of annual compensation is the difference between the rate of annual pension in respect of admitted service if calculated in accordance with paragraph (2)(a) of regulation 81 of the Pensions Regulations without any reduction under paragraph (4) of that regulation and the actual rate of annual pension.

3. The amount of lump sum compensation is the amount by which the lump sum in respect of admitted service is reduced by virtue of regulation 81(4) of the Pensions Regulations.”.