1989 No. 946

EDUCATION, ENGLAND AND WALES

The Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1989

Made - - - -	*6th June 1989*
Laid before Parliament	*9th June 1989*
Coming into force -	*1st July 1989*

ARRANGEMENT OF REGULATIONS

Part II: Retirement pensions

Part III: Dependant's pensions

Part IV: Lump sums on death

The Secretary of State, in exercise of the powers conferred by sections 9 and 12 of the Superannuation Act 1972**(a)** and Schedule 3 thereto, after consulting with representatives of the local education authorities, teachers and other persons likely to be affected in accordance with section 9(5) of the said Act, and with the consent of the Treasury**(b)**, hereby makes the following Regulations:–

Title and commencement

1. These Regulations may be cited as the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1989, and shall come into force on 1st July 1989.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation or Schedule is to be construed as a reference to the regulation or Schedule which bears that number in these Regulations, and any reference to a numbered paragraph in a regulation of a Schedule to these Regulations is to be construed as a reference to the paragraph bearing that number in that regulation or, as the case may be, that Schedule.

(2) In these Regulations references to the Taxes Act are references to the Income and Corporation Taxes Act 1988**(c)** and references to the 1988 Regulations are references to the Teachers' Superannuation (Consolidation) Regulations 1988**(d)**.

(3) In these Regulations, unless the context otherwise requires–

"actuarial" means determined by, or in accordance with tables prepared by, the Government Actuary;

"approved scheme" means a retirement benefits scheme approved under Chapter 1 of Part XIV of the Taxes Act;

"basic contributor" is to be construed in accordance with regulation 7;

"cash equivalent" means a cash equivalent mentioned in paragraph 12(1) of Schedule 1A to the Social Security Pensions Act 1975**(e)**;

"the Company" means The Prudential Assurance Company Limited;

"death benefit contributions" means contributions paid pursuant to an election under regulation 5(1);

"death benefit contributor" is to be construed in accordance with regulation 7;

"death benefit cover" is to be construed in accordance with regulation 5(1);

"dependant" is to be construed in accordance with regulation 11(4);

"dependant's pension" includes a pension purchased pursuant to an election under regulation 5(3) or 6(2)(b) or (3);

"earnings" and "emoluments" mean–

(a) in relation to pensionable employment, earnings and emoluments in respect of such employment, disregarding, in the case of a person who entered such employment after 31st May 1989 with no right to count any period before 1st June 1989 as reckonable service, any excess over £60,000 in any tax year, and

(b) in relation to a period of contribution under regulation C8 of the 1988 Regulations, the notional salary by reference to which the contributions under that regulation were calculated;

(a) 1972 c.11.
(b) See S.I. 1981/1670.
(c) 1988 c.1.
(d) S.I. 1988/1652; relevant amendments were made by S.I. 1989/378, 811.
(e) 1975 c.60; Schedule 1A was inserted by the Social Security Act 1985 (c.53), Schedule 1, paragraph 3, and amended by the Social Security Act 1986 (c.50), Schedule 10, paragraphs 29 and 30.

"the family benefit provisions" means regulations E23 to E28 of the 1988 Regulations;

"free-standing additional voluntary contributions scheme" means an approved scheme which falls within section 591(2)(h) of the Taxes Act;

"the Index" means the index of retail prices published by the Department of Employment;

"lump sum contribution" means a contribution paid under regulation 4(3);

"participator" means a basic contributor or a person who has ceased to be a basic contributor but has not exercised any right to take a cash equivalent or to be paid a lump sum under regulation 14(1);

"pension element" is to be construed in accordance with regulation 5(3);

"pension investments" means investments made under regulations 9(2) and (4) and 10(2);

"pensionable employment" is to be construed in accordance with Part B of the 1988 Regulations;

"regular contributions" means contributions paid pursuant to an election under regulation 4(1);

"retire" means become entitled under regulation E4 of the 1988 Regulations to payment of retirement benefits, and cognate expressions are to be construed accordingly;

"retirement benefits scheme" has the meaning given in section 611 of the Taxes Act; and

"tax year" means the 12 months beginning with 6th April in any year.

Making and acceptance of elections

3.—(1) Any election under these Regulations–

(a) is to be made by giving written notice to the Secretary of State,

(b) is, subject to paragraphs (2) to (4), to be accepted by him, and

(c) except in the case of a benefits election under regulation 11(5), has effect from the first day of the month following that in which it was accepted.

(2) No election under these Regulations is to be accepted if any limit imposed by regulation 8(4) or 13 (limits on contributions and benefits) would be exceeded.

(3) An election falling within regulation 16(2) (death benefit cover, continued death benefit cover and increased death benefit cover) is not to be accepted if–

(a) any information required under regulation 16(2) is not given, or

(b) the information given is such that the cover could not be secured by investment under regulation 9(6).

(4) A benefits election under regulation 11(5) made after retirement may be accepted only if the Secretary of State is satisfied as mentioned in regulation 11(5).

Election to pay regular contributions and payment of lump sum contributions

4.—(1) A person in pensionable employment may at any time elect to pay regular contributions under these Regulations.

(2) The notice of such an election is to specify–

(a) the amount of each contribution, and

(b) the way in which the contributions are to be invested under regulation 9.

(3) Subject to regulation 8(4), a person in pensionable employment may at any time pay a lump sum contribution and notify the Secretary of State in writing of the way in which it is to be invested under regulation 9.

Elections in respect of death benefit cover

5.—(1) A person in pensionable employment may at any time elect to pay death benefit contributions to secure death benefit cover, that is to say the payment of a lump sum in the event of his dying while still paying those contributions.

(2) The notice of an election under paragraph (1) is to specify the amount to be secured, which must not be less than £5,000.

(3) A person making an election under paragraph (1) may at the same time, and a person paying death benefit contributions may at any time, elect that if the lump sum becomes payable the whole or a specified part of it ("the pension element") is to be applied by the Secretary of State to the purchase from the Company of a pension or pensions for one or more dependants.

(4) A person making an election under paragraph (3) is to notify the Secretary of State in writing, as soon as is reasonably practicable–

(a) of the name of every person for whom a pension is to be provided,

(b) if more than one pension is to be provided, of the proportion of the pension element that is to be applied to the purchase of each of them, and

(c) in respect of every pension to be provided, whether the annual rate of the pension–

(i) is to be fixed, or

(ii) is to vary in accordance with the Index, or

(iii) is to increase yearly by a specified percentage or, if lower than that percentage, by any increase in the Index for the year in question.

(5) A person who has continued to pay death benefit contributions up to his 60th birthday but does not then retire may elect to pay further contributions to secure the continuance to his 61st birthday of the death benefit cover, including any pension element, in force immediately before his 60th birthday; and so long as he has not retired further elections may be made annually in respect of years commencing on his 61st and subsequent birthdays.

(6) Any continued death benefits cover secured by an initial or further election under paragraph (5) lapses if the person retires during the year in question.

Variation and cancellation of elections

6.—(1) At any time, by giving written notice to the Secretary of State, a basic contributor–

(a) may if he is paying regular contributions–

(i) alter their amount,

(ii) require them to be invested in future, under regulation 9, in a different way, or

(iii) cancel his election under regulation 4(1), and

(b) may in any case require the Secretary of State to realise any investment and to reinvest the proceeds, under regulation 9, in a different way.

(2) A death benefit contributor may at any time elect–

(a) that a specified larger lump sum is to be secured, or

(b) if he has made an election under regulation 5(3), to cancel it or to alter in any specified way the manner in which the pension element is to be applied, or

(c) to cancel his election under regulation 5(1).

(3) A person paying further contributions under regulation 5(5) (continuance of death benefit cover after the age of 60) may at any time make any election that he could have made under regulation 5(3) or paragraph (2)(a) or (b) above if he had been paying death benefit contributions.

(4) The Secretary of State is to give effect as soon as is reasonably practicable to the terms of any notice given under this regulation.

Basic and death benefit contributors

7.—(1) Subject to paragraphs (3) and (4), a person is a basic contributor–

(a) while an election under regulation 4(1) (regular contributions) has effect, or

(b) if he has paid one or more lump sum contributions.

(2) Subject to paragraphs (3) and (4), a person is a death benefit contributor while an election under regulation 5(1) has effect.

(3) Subject to paragraph (4), a person who–

(a) has ceased to be in pensionable employment, and

(b) is not paying contributions under regulation C8 of the 1988 Regulations (additional contributions for current period),

ceases to be either a basic contributor or a death benefit contributor.

(4) A person who–

(a) has ceased to be in pensionable employment, and

(b) has re-entered pensionable employment within 3 months,

is to be treated as having continued to be in pensionable employment.

Payment and amount of contributions

8.—(1) Regular contributions are payable to the Secretary of State at intervals of one month.

(2) Death benefit contributions and further contributions under regulation 5(5) (continuance of death benefit cover after the age of 60) are payable to the Secretary of State at the same times as regular contributions.

(3) All contributions except lump sum contributions are to be deducted from the person's salary by his employer, who must remit them to the Secretary of State within 7 days after the date on which they became payable.

(4) The total of the contributions of all kinds paid in any tax year must not exceed the lesser of (A-B-C) and D, where–

A is 15 per cent of the person's emoluments for that year,

B is the total of any contributions paid by him in the year to another approved scheme,

C is the total of the contributions paid by him in the year under the 1988 Regulations, and

D is the amount which would be likely to provide benefits of the largest amounts allowed by regulation 13.

Investment of contributions

9.—(1) In paragraphs (2) to (5) "invested" means invested with the Company in one or more of the following funds:

(a) the Cash Accumulation Fund;

(b) the Pensions Deposit Fund;

(c) the Pensions Managed Fund;

(d) the Pensions UK Equity Fund;

(e) the Pensions International Fund;

(f) the Pensions Fixed Interest Fund;

(g) the Pensions Index Linked Fund.

(2) Subject to paragraph (3), regular contributions are to be invested by the Secretary of State in accordance with any election for the time being having effect under regulation 4(1) or 6(a)(ii).

(3) In investing a regular contribution no amount smaller than £20 may be invested in any one of the funds mentioned in paragraph (1)(c) to (g).

(4) Subject to paragraph (5), any lump sum contribution paid is to be invested by the Secretary of State–

(a) in accordance with any notification given by the person concerned, or

(b) if no such notification was given, in the fund mentioned in paragraph (1)(a).

(5) In investing a lump sum contribution–

(a) no amount smaller than £50 may be invested in either of the funds mentioned in paragraph (1)(a) and (b), and

(b) no amount smaller than £240 may be invested in any one of the funds mentioned in paragraph (1)(c) to (g).

(6) Death benefit contributions and further contributions under regulation 5(5) are to be invested by the Secretary of State with the Company so as to secure death benefit cover of the amount required by any election for the time being having effect under regulation 5(1) or (5) or 6(2) or (3).

Inward transfers

10.—(1) The Secretary of State may accept a transfer value from the administrator of–

(a) a free-standing additional voluntary contributions scheme, or

(b) an approved scheme which provides additional benefits but does not fall within section 591(2)(h) of the Taxes Act,

in respect of a basic contributor.

(2) A transfer value accepted by the Secretary of State is to be invested by him as if it had been a lump sum contribution and regulation 9(4) and (5) had accordingly applied.

Retirement and dependant's pensions

11.—(1) The benefits that may be provided under this regulation are a retirement pension and one or more dependant's pensions.

(2) A retirement pension is a pension payable to the participator for life, commencing–

(a) where a benefits election is made during the period specified in paragraph (5), or one made within 3 months after his retirement is accepted, on the date of his retirement, or

(b) where an election made 3 months or more after his retirement is accepted, or the pension is purchased under paragraph (10), as soon as is reasonably practicable.

(3) A dependant's pension is a pension which would become payable to a dependant on the death of the participator after his retirement and–

(a) in the case of an adult, would be payable for life, and

(b) in the case of a child, would cease to be payable when he ceased to be a child for the purposes of the family benefit provisions.

(4) The persons who are dependants are–

(a) any surviving spouse of the participator,

(b) any person who at the time of the participator's death is a child of his for the purposes of the family benefit provisions, and

(c) any person in respect of whom at the time of the death a nomination under regulation E22 of the 1988 Regulations (nomination to receive pension under the family benefit provisions) has effect.

(5) During the month ending on the date of his retirement, a participator is to make a benefits election; but if the Secretary of State is satisfied that it was not reasonably practicable for an election to be made during that period he may accept one made after retirement.

(6) The notice of a benefits election is to specify–

(a) whether a retirement pension is to be provided,

(b) for whom, if anyone, dependant's pensions are to be provided,

(c) if more than one pension is to be provided, the proportion of the amount obtained by realising the pension investments that is to be applied to the purchase of each of them,

(d) in respect of every pension to be provided, whether the annual rate of the pension–

(i) is to be fixed, or

(ii) is to vary in accordance with the Index, or

(iii) is to increase yearly by a specified percentage or, if lower than that percentage, by any increase in the Index for the year in question,

and from which of the pension providers it is to be purchased.

(7) The pension providers are the companies listed in Schedule 1.

(8) In the case of a retirement pension, the notice may also specify that if the participator dies within the period of 5 years beginning when the pension commences the balance that would have been payable during the remainder of that period if the pension had continued at the rate in force at the time of his death is to be paid as a lump sum.

(9) Subject to paragraphs (10) and (11), the Secretary of State is to realise the pension investments and apply the amount obtained to the purchase from the specified pension provider or providers of the benefits specified in the notice of election.

(10) Subject to paragraph (11), the Secretary of State–

(a) if he does not accept a benefits election made after retirement, is to, and

(b) if–

(i) 6 months after retirement no election has been made, and

(ii) he is satisfied that there is no reasonable excuse for the delay,

may at any time,

apply the amount obtained to the purchase from one or more of the pension providers of such benefits as appear to him to be suitable having regard to regulation 13 (benefit limits) and to the participator's family circumstances and his age and health.

(11) If–

(a) there are exceptional circumstances of serious ill-health, or

(b) his aggregate pension benefits would be trivial,

the Secretary of State may realise the investments without purchasing any pension, and in that event the amount obtained becomes payable as a lump sum.

(12) Aggregate pension benefits are trivial if the annual rate of the retirement pension that could be purchased, together with the annual equivalent of all pension benefits payable to the participator from other sources, would not exceed–

(a) £104, or

(b) if greater, any amount prescribed by regulations for the time being in force under paragraph 15(4) of Schedule 16 to the Social Security Act 1973**(a)**.

Lump sum death benefit

12.—(1) This regulation applies where a person who is paying death benefit contributions or further contributions under regulation 5(5) dies and the lump sum secured by those contributions is obtained by the Secretary of State from the Company.

(2) If at the time of the death no election under regulation 5(3) or corresponding election under regulation 6(3) had effect, the lump sum becomes payable.

(3) Subject to paragraphs (4) and (5), if at the time of the death such an election had effect–

(a) the Secretary of State is to apply the pension element in accordance with any notification given under regulation 5(4), and

(b) the balance of the lump sum becomes payable.

(4) If at the time of the death any person named in a notification given under regulation 5(4) had died or ceased to be a dependant, the proportion of the pension element that was to have been applied to the purchase of a pension for him–

(a) ceases to be part of the pension element, and

(b) is to be added to the balance becoming payable under paragraph (3)(b).

(5) If at the time of the death no notification had been given under regulation 5(4), the Secretary of State is to apply the pension element to the purchase of pensions for all

(a) 1973 c.38.

dependants, proportionate to the long-term pensions payable to them under the family benefit provisions.

(6) References in this regulation to a notification given under regulation 5(4) include references to such a notification as varied by an election under regulation 6(2)(b) or (3).

Benefit limits

13.—(1) Schedule 2 has effect for limiting the benefits that may be paid under these Regulations.

(2) The maximum annual rate of a retirement pension or dependant's pension ascertained from Schedule 2 is increased–
- (a) by 3 per cent for each complete year that has elapsed, or
- (b) if a greater increase results, in proportion to the increase in the Index that has occurred,

since the date on which the pension became payable.

Repayment in certain cases

14.—(1) If a person–
- (a) ceases to be a basic contributor before retiring, and
- (b) does not acquire a right to a cash equivalent, and
- (c) on making an application under regulation C13 of the 1988 Regulations is repaid the balance of his contributions under those Regulations,

the appropriate lump sum becomes payable.

(2) If a participator dies before retirement the appropriate lump sum becomes payable.

(3) The appropriate lump sum is the realisable value of the pension investments.

Payment by Secretary of State

15.—(1) Retirement pensions and dependant's pensions are to be paid by the Secretary of State to the persons entitled to them.

(2) Lump sums payable–
- (a) as mentioned in regulation 11(8), or
- (b) under regulation 12(2) or (3)(b) or 14(2),

are to be paid by the Secretary of State to the deceased's widow or widower or, if there is no widow or widower, to the personal representatives.

(3) Lump sums payable under regulation 11(11) or 14(1) are to be paid by the Secretary of State to the former basic contributor.

(4) If by reason of regulation 13 a benefit is not payable in full, the Secretary of State is to pay to the person entitled to the benefit so much of the relevant amount as would–
- (a) in the case of a pension, if applied to its purchase, or
- (b) in the case of a lump sum, if paid as part of it,

have caused the benefit to exceed the limit.

(5) The relevant amount is–
- (a) in the case of a pension payable under regulation 11, the proportion of the amount obtained under regulation 11(9) that is applicable to the purchase of the pension,
- (b) in the case of a lump sum payable under regulation 12(2), that sum, and
- (c) in the case of a pension payable under regulation 12(3)(a) or (5), the proportion of the pension element that is applicable to the purchase of the pension.

(6) The amount of any tax chargeable, under section 598 of the Taxes Act or otherwise, on a payment under this regulation is to be deducted by the Secretary of State before payment.

Information

16.—(1) Persons making elections under these Regulations, and their employers, are to give the Secretary of State such information as he may reasonably require for the purposes of his functions under these Regulations.

(2) A person making–

(a) an election under regulation 5(1) or (5) (death benefit and continued death benefit cover), or

(b) an election under regulation 6(2)(a) (increased death benefit cover), or

(c) an election under regulation 6(3) corresponding to one that could have been made under regulation 6(2)(a),

is, in particular, to give the Secretary of State such information about his health as the Secretary of State may reasonably require having regard to regulation 9(6) (investment so as to secure death benefit cover).

Determination of questions

17. All questions arising under these Regulations are to be determined by the Secretary of State and a determination by him is final.

Retrospective effect

18.—(1) Subject to paragraph (3), any sum paid to the Secretary of State by a person in pensionable employment in anticipation of these Regulations is to be treated as if it had been paid under these Regulations.

(2) A sum is one paid in anticipation of these Regulations if–

(a) it was paid after 2nd February 1989 and before the commencement of these Regulations on the understanding that if regulations providing for additional voluntary contributions were made it would be treated as such a contribution, and

(b) if paid before 6th April 1989, it would not, if these Regulations had been in force during the tax year ending with 5th April 1989, have exceeded the limit imposed by regulation 8(4), and

(c) if paid after 5th April 1989, it did not exceed the limit imposed by regulation 8(4) on contributions paid in the tax year beginning on 6th April 1989.

(3) Nothing in this regulation is to be taken to have imposed on the Secretary of State any obligation to make any investment before the commencement of these Regulations, but–

(a) any investment so made is to be treated as having been made under these Regulations, and

(b) if any investment was so made and an event on which a benefit would have been payable occurred before the commencement of these Regulations, the benefit is to be paid.

SCHEDULE 1

Regulation 11(7)

PENSION PROVIDERS

The Company
Eagle Star Insurance Company Limited
The Equitable Life Assurance Society
Legal and General Assurance Society Limited
The Norwich Union Life Insurance Society
Pearl Assurance PLC
Scottish Widows' Fund and Life Assurance Society
The Standard Life Assurance Company
Sun Alliance Insurance Group
Sun Life Assurance Society PLC

SCHEDULE 2

Regulation 13

BENEFIT LIMITS

PART I

INTERPRETATION

1. Paragraphs 2 to 5 have effect for defining expressions used in this Schedule.

2. "Total retirement benefits" means the total of so much of–

(a) the annual rate of the participator's retirement pension under these Regulations, and

(b) the annual rate of any retirement pension under the 1988 Regulations, and

(c) the actuarial equivalent as an annual pension of any retirement lump sum under the 1988 Regulations,

as is not attributable to the receipt of any transfer value, together with the annual rate of any pension payable to him under a free-standing additional voluntary contributions scheme.

3.—(1) "Final remuneration" means the greater of A and B, where–

A is the participator's highest year's adjusted earnings in respect of pensionable employment, or earnings in respect of a period of contribution under regulation C8 of the 1988 Regulations, during the period of 5 years ending on the material date, and

B is the average of his total taxable earnings for any period of 3 or more consecutive years ending no earlier than 10 years before the material date,

but, in respect of any year other than the one ending on the material date, earnings are to be taken to have been increased in proportion to any increase in the Index from the end of the year up to the material date.

(2) In this paragraph "adjusted earnings" means C+D, where–

C is the participator's total taxable earnings for the year in question less any bonus payments and payments for overtime ("fluctuating emoluments"), and

D is the average, for a period ending with the year in question, of any fluctuating emoluments; the period is one of at least 3 years or, if shorter, the period during which the fluctuating emoluments have been payable,

and "the material date" means the earliest of–

(a) the retirement date,

(b) the date on which the retirement pension under these Regulations commenced, and

(c) the date on which the participator ceased to be in pensionable employment or, as the case may be, to contribute under regulation C8 of the 1988 Regulations.

4.—(1) "Retained benefits" means the total of any pensions payable to the participator–

(a) in respect of employment before he entered pensionable employment, under a retirement benefits scheme or under an annuity contract falling within section 431(4)(d) of the Taxes Act, or

(b) under a retirement annuity contract or trust scheme approved under Chapter III of Part XIV of the Taxes Act,

and so much of any pension payable to him under these Regulations or the 1988 Regulations as is attributable to a transfer value received from any such scheme or on the termination of any such contract.

(2) In this paragraph "pension" includes the actuarial equivalent as an annual pension of any lump sum.

5. "Relevant employment" comprises employment falling within Schedule 2 to the 1988 Regulations and employment in an accepted school within the meaning of regulation B4 of those Regulations.

PART II

RETIREMENT PENSIONS

6. The annual rate of a participator's retirement pension under these Regulations must not be such as to cause his total retirement benefits to exceed the permitted amount.

7.—(1) If the participator retires on his 60th birthday, the permitted amount is the greater of E and F, where–

E is 1/60th of his final remuneration for each of up to 40 years of relevant employment, and

F is the lesser of G and H.

(2) In sub-paragraph (1)–

G is 1/30th of his final remuneration for each of up to 20 years of relevant employment, and

H is 2/3rds of his final remuneration less any retained benefits.

8. If the participator retires on a date later than his 60th birthday, the permitted amount is the greatest of J, K and, where applicable, L, where–

J is an amount calculated in accordance with paragraph 7 as at that date,

K is an amount calculated in accordance with paragraph 7 as at his 60th birthday increased, up to that date, either actuarially or in proportion to any increase in the Index, and

L is, in the case of a participator with more than 40 years of relevant employment, 1/60th of his final remuneration for each of up to 45 years of relevant employment, excluding any years before his 60th birthday in excess of 40.

9.—(1) If the participator retires after having, before his 60th birthday, ceased to be in relevant employment, the permitted amount is the greater of (M+R) and

$$\left(\frac{N}{P}\times Q)+R\right),$$

where–

M is 1/60th of his final remuneration for each of up to 40 years of relevant employment,

N is the number of years on which M is calculated,

P is the number of years on which M would have been calculated if he had continued in relevant employment up to his 60th birthday,

Q is an amount calculated in accordance with paragraph 7 as at his 60th birthday, and

R is the appropriate increase.

(2) For the purposes of sub-paragraph (1) the appropriate increase is an increase in the amount in question, either–

(a) in proportion to any increase in the Index, or

(b) if greater, at 5 per cent compound,

from the cessation of relevant employment to the date on which the pension commenced.

PART III

DEPENDANT'S PENSIONS

10.—(1) The annual rate of a dependant's pension under these Regulations, or where more than one such pension is payable the total of their annual rates, must not be such as to cause the total of the annual rates of the relevant benefits to exceed the permitted amount.

(2) Where only one dependant's pension is payable, the relevant benefits are–

(a) that pension,

(b) any similar pension payable to the dependant under the 1988 Regulations or under a free-standing additional voluntary contributions scheme to which contributions were paid while the participator was in pensionable employment, and

(c) any retained benefits,

and the permitted amount is 2/3rds of the annual rate of the maximum retirement pension.

(3) Where two or more dependant's pensions are payable, the relevant benefits are–

(a) those pensions,

(b) any similar pensions payable as mentioned in sub-paragraph (2)(b), and

(c) any retained benefits,

and the permitted amount is the annual rate of the maximum retirement pension.

(4) In sub-paragraph (2) and (3) "retained benefits" means pensions payable to a dependant as such which, if they had been pensions payable to the participator, would have fallen within paragraph 4.

(5) The maximum retirement pension is the largest retirement pension that could have been paid to the participator under these Regulations if any retained benefits were left out of account for the purposes of paragraphs 7 to 9.

(6) In calculating the maximum retirement pension–

(a) if the participator died in relevant employment and had not attained the age of 60, it is to be assumed that he continued in relevant employment at the same salary up to, and retired on, his 60th birthday, and

(b) if he died in relevant employment and had attained the age of 60, it is to be assumed that he retired on the day before that of his death.

PART IV

LUMP SUMS ON DEATH

11.—(1) The lump sum secured by any death benefit contributions must not be such as to cause the total lump sum death benefits to exceed the permitted amount.

(2) The total lump sum death benefits are the total of–

(a) the lump sum secured by the contributions, and

(b) any similar benefits totalling £1,000 or more that are payable under relevant schemes.

(3) The relevant schemes are–

(a) approved schemes,

(b) schemes approved under Chapter IV of Part XIV of the Taxes Act,

(c) free-standing additional voluntary contributions schemes,

(d) retirement annuity contracts approved under Chapter III of Part XIV of the Taxes Act, and

(e) the scheme constituted by the 1988 Regulations.

(4) The permitted amount is £5,000 or, if greater, 4 times the death benefit contributor's remuneration.

(5) The death benefit contributor's remuneration is the greatest of S, T and U, where–

S is what his final remuneration would have been if the date of his death had been the material date,

T is his highest year's adjusted earnings for the purpose of calculating S, and

U is his total taxable earnings during any period of 12 months ending not more than 3 years before the date of his death, increased as mentioned in paragraph 3(1).

Kenneth Baker
1st June 1989 Secretary of State for Education and Science

We consent

Stephen Dorrell
David Lightbown
6th June 1989 Two of the Lords Commissioners of Her Majesty's Treasury

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the payment of additional voluntary contributions by members of the superannuation scheme constituted by the Teachers'

Superannuation (Consolidation) Regulations 1988 ("the 1988 Regulations"), in order to secure additional benefits financed by investing the contributions.

The Regulations provide for the making of elections of various kinds. Regulation 3 contains general provisions as to their making and acceptance; regulation 4 provides for elections to pay regular contributions, and for the payment of lump sum contributions, so as to secure additional retirement and dependant's pensions; regulation 5 provides for elections to pay death benefit contributions so as to secure a lump sum death benefit (which may if desired be applied wholly or in part to the purchase of dependant's pensions) in the event of death while paying such contributions; regulation 6 allows elections made under regulations 4 and 5 to be varied or cancelled. While an election has effect and the person concerned is in employment which is, or is treated as being, pensionable under the 1988 Regulations, he remains a basic contributor or, as the case may be, a death benefit contributor for the purposes of these Regulations (regulation 7).

Regulation 8 deals with the payment of contributions and imposes a limit on their total amount; regulation 9(1) to (5) requires the Secretary of State to invest regular and lump sum contributions with the Prudential in one or more of the specified funds in accordance (subject to certain minima) with any wishes expressed by the contributor, and regulation 9(6) requires death benefit contributions to be invested so as to secure the amount of cover specified. A transfer value accepted from another additional voluntary contributions scheme is to be invested as if it had been a lump sum contribution (regulation 10).

On retirement, investments (except those made with death benefit contributions) are to be realised and retirement or dependant's pensions, or both, purchased with the proceeds from one or more of the insurance companies listed in Schedule 1, in accordance with any wishes expressed by the contributor in a benefits election (regulation 11(1) to (9)). Regulation 11(10) makes default provision, and regulation 11(11) and (12) allow the proceeds of realisation to be paid as a lump sum in some circumstances.

Regulation 12 provides for the payment of death benefits secured by contributions under regulation 5.

Regulation 13, with Schedule 2, imposes limits on all kinds of benefits payable under the Regulations; to the extent that a limit would otherwise be exceeded, a capital sum is payable, after deduction of tax (regulation 15(4) to (6)).

Regulation 14 provides for the realisable value of investments to be repaid where contributions under the 1988 Regulations are repaid, and in some circumstances where a basic contributor or former basic contributor dies before retirement.

Benefit and other payments are to be made by the Secretary of State in accordance with regulation 15. Regulation 16 requires him to be given information needed for the purposes of his functions under the Regulations. Regulation 17 provides for questions to be determined by him.

Section 12 of the Superannuation Act 1972 confers express power to make regulations retrospective in effect. Regulation 18 provides for payments made by employees in anticipation of these Regulations to be treated as contributions, and for benefits to be payable where such payments were invested and a relevant event occurred before the commencement of the Regulations.