



To: Principals and Boards of Governors of all grant-aided schools
Education and Library Boards
Council for Catholic Maintained Schools
Bodies of Institutions of Further Education, and
Other Interested Bodies

27 March 2007

Dear Employer

This letter and the attached Annexes contain information about:

**THE TEACHERS' PENSIONS etc (REFORM AMENDMENTS) REGULATIONS
(NORTHERN IRELAND) 2007 (2007 No 137)**

These regulations came into force on 1 April 2007 and amend:

- (a) The Teachers' Superannuation Regulations (Northern Ireland) 1998 (see **Annex A**)
- (b) The Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996 (see **Annex B**)
- (c) The Teachers (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991 (see **Annex C**)

These regulations implement the package of agreed reforms following the wide-ranging review of the Northern Ireland Teachers' Pension Scheme (NITPS) started in November 2003, with the first consultation exercise taking place between 1 December 2004 and 15 March 2005. Following a series of Public Services Forum meetings, an agreement was reached on 18 October 2005 between Government and the TUC on the framework for reform of public-service pension schemes. This enabled fresh negotiations to begin with teacher employer organisations and teacher unions. The second consultation - on a package of reforms that had been agreed between Government, unions and employers - took place between 3 August 2006 and 30 October 2006.

A commentary on the material changes to the regulations is set out in each of the attached Annexes.

Copies of the regulations and the explanatory memorandum will be available for download from April at <http://www.opsi.gov.uk/stat.htm>.

Yours sincerely

Seamus Gallagher

Teachers' Pensions Branch

THE TEACHERS' PENSIONS REGULATIONS (Northern Ireland) 1998

Note: Amendments to the above regulations are contained within Schedule 3 to the Teachers' Pensions etc (Reform Amendments) Regulations (Northern Ireland) 2007. Material changes (grouped into subject areas) are as follows:

CHANGES TO EXISTING SCHEME PROVISIONS

Pensionable Employment

Upper Age Limit

1. The upper age for pensionable employment has been increased from 65 to 75 (see also paragraph 24).

Automatic Part-time Membership

2. All part-time employment commencing on, or after 1 April 2007 is automatically pensionable, unless (and until) the person formally opts out.
3. If a person's non-pensionable part-time employment straddles 31 March 2007/1 April 2007, he will continue in non-pensionable part-time employment until cessation of the employment, unless he formally opts in. Once that employment has ended, subsequent part-time employment is automatically pensionable (unless the person opts out).
4. Teacher' Pensions Branch cannot advise employers on what constitutes a change of employment. This is a contractual (and therefore employment-related) matter that is solely for employers to determine. As a person's employment status is a matter of fact, there should be no uncertainty on this matter. If there is any uncertainty the default position should be (with the person's permission) to treat the employment as pensionable. Employers should be careful to obtain the person's permission by arranging for the person to complete a formal election. And it must be made clear to the person that the election will (i) apply to all other concurrent part-time employment with another employer and (ii) will override any previous election to opt out. If a person makes it clear that they do not want to be in pensionable employment then they should be provided with the pro forma to opt out.

Concurrent Full-time and Part-time Employment

5. From 1 April 2007 onwards, all part-time employment that is concurrent with full-time pensionable employment is not pensionable, even if a person had previously made a part-time election.

Total Reckonable Service Limits

6. The 40 year limit on the amount of reckonable service (service that counts in the calculation of pension) that can count in the calculation of retirement benefits at age 60 has been removed.

7. It is possible that some people may have opted out prior to 1 April 2007 because of the '40 year' rule and if employers are aware of such people they should be advised of this rule change so that they can consider whether they wish to opt back into pensionable employment. Only post 1 April 2007 service can be counted towards service beyond 40 years.
8. The overall 45 year limit on the amount of reckonable service that can count in the calculation of retirement benefits has been retained.

Scheme Finance

Employee and Employer Contribution Rates

9. From 1 April 2007, the employee and employer contribution rates are 6.4% and 13.6% retrospectively.

Cost Sharing

10. The Regulation sets out how member contributions will be determined. It gives effect to the agreement that member contributions will increase from the current 6% to 6.4% on 1 April 2007 and that future member contribution rates will be set as equal to the member rate applied at the equivalent scheme valuation in the Teachers' Pension Scheme (England and Wales). This rate will have been set following a process that leads to the sharing of most additional costs or savings between the member and employer contribution rates.

Scheme Benefits

'Normal Pension Age' (NPA)

11. Service commencing on or after 1 April 2007 by new entrants to the NITPS will carry an NPA of 65. This does not mean that retirement benefits cannot be accessed before attaining that age, but benefits paid before attaining age 65 would be subject to actuarial reduction. However, pensionable service with an NPA of 65 is subject to an improved accrual rate (see paragraph 14 below).
12. Existing scheme members ('pre-April 2007 entrants') will continue to be entitled to an NPA of 60. The exception will be if there is a 'relevant break in service' in which case **future** service will carry an NPA of 65.
13. In broad terms, a 'relevant break in service' is a five year period ending after 31 March 2008 when a person was not in pensionable employment. To retain an NPA of 60 for future service, scheme members must accrue 60 pays' pensionable service or 30 days' reckonable service (whether continuous or not) over a rolling 12 month period starting within that five year period. TPB will confirm the position in individual cases.

Accrual Rates of Retirement Benefits

14. Service that accrues under an NPA of 65 will provide a pension at the rate of 1/60th of average salary (see paragraph 21 for details of the new average salary arrangements) with the option to commute up to 25% of the capitalised value of the pension as a (tax free) retirement lump sum by exchanging £1 of annual pension for every £12 of lump sum.

15. Service that accrues under an NPA of 60 will continue to provide a pension at the rate of 1/80th of average salary plus a (tax free) retirement lump sum of 3/80th of average salary. Scheme members with pensionable employment on or after 1 April 2007 will have the option of taking a higher (tax free) lump sum up to the maximum of 25% of the fund value.
16. A 'modeller', which scheme members can use to assess different options, will be available shortly on the DE website www.deni.gov.uk.

Minimum Pension Age of 55

17. In line with HM Revenue and Customs rules on minimum retirement ages, the teachers' pensions regulations were amended last year to provide a minimum pension age of 55 for new entrants to the NITPS. The regulations have now been further amended to prescribe that from 6 April 2010, with the exception of scheme members retiring on grounds of ill health (for whom there is no minimum pension age in the NITPS), no scheme member will be able to draw retirement benefits before attaining the age of 55.

Average Salary used to calculate Retirement Benefits

18. For scheme members who have service on or after 1 April 2007, the average salary used to calculate retirement benefits will be calculated on a new '10 year' method whereby the average salary will be the best of:
 - (a) the final year's salary; or
 - (b) the average of the best three consecutive years in the final 10 year period of service (ie the best 1095 consecutive days of service in the last 10 calendar years) index linked up to the date when the average salary period ended.
19. The '10 year' average salary method is a scheme improvement and will be advantageous to the vast majority of scheme members. But as a precaution against situations where this might not be the case, the regulations contain transitional cover for scheme members whose retirement benefits go into payment on or after 1 April 2007 and before 1 March 2009. In those cases, the average salary will be the better of the (old) 'three year' method and the (new) final year or '10 year' method.
20. A regulation that protects the NITPS against 'excessive salary' increases prior to retirement has been introduced in light of the '10 year' average salary model. The regulation will apply to cases where an 'excessive' increase in salary occurred in the final three years of service and, as a consequence, the final year's salary was better than any three year average.

Revised Ill-Health retirement Benefits

21. Ill-health retirement applications received on or after 6 April 2007 will be considered under the new arrangements, which provide for the payment of Partial Incapacity Benefits (PIB) or Total Incapacity Benefits (TIB):
 - PIB will be awarded to those who are permanently incapable of teaching but capable of other gainful employment. Benefits will be based on pensionable service ie no enhancement and they will not be liable for review once awarded.

- TIB will be awarded to those who are permanently incapable of teaching and other gainful employment. Benefits will comprise (i) benefits based on pensionable service and (ii) enhancement based on half prospective service up to their NPA.

22. Deferred scheme members who apply for ill-health retirement benefits must meet the TIB criteria but will be awarded PIB (benefits based on pensionable service with no enhancement).

Restriction on Recycling Lump Sums

23. HM Revenue and Customs rules contain tax penalties on individuals who use a (tax free) lump sum to generate further retirement benefits. Schemes are also subject to penalty, therefore it has been necessary to include a statutory condition that entitlement to a retirement lump sum from the NITPS depends on the scheme member providing a written declaration undertaking not to re-cycle any lump sum from the NITPS into another pension-savings vehicle. If a declaration is required but is not received, any lump sum, which would have been paid, may be converted to annual pension using factors supplied by the Government Actuary.

Retirement Benefits payable on or after a Scheme Member's 75th Birthday

24. HM Revenue and Customs legislation stipulates that no retirement lump sum can be paid after age 75. In this event, therefore, the retirement lump sum will be converted to pension.

Duration of Spouses', Civil Partners' and Surviving Nominated partners' Pensions

25. Spouses', civil partners' and surviving nominated partners' pensions that are payable in respect of scheme members who retire on or after 1 April 2007 will be payable for the lifetime of the recipient.
26. Spouses' and civil partners' pensions payable in respect of scheme members who retired on a date prior to 1 April 2007 will remain liable to cessation on the recipient's re-marriage, civil partnership or cohabitation.
27. Details about the surviving nominated partner pension arrangements are below (see paragraph 33).

Death Grant

28. The death grant payable in respect of scheme members who die 'in service' on or after 1 April 2007 will be three times the average salary (less any lump sum payments already made).

NEW SCHEME PROVISIONS

Pensions for Partners (opposite-sex and same-sex)

Nomination Arrangements

29. From 1 April 2007, single scheme members (including deferred scheme members) and pensioners are able to nominate a partner to receive a surviving nominated partner (SNP) pension.

30. In order to nominate a partner, the scheme member or pensioner must be legally free to marry or enter a civil partnership. The nomination must be accompanied by a joint declaration by the scheme member and the nominee confirming that they have lived together as if they were husband and wife or civil partners continuously for at least two years and that there is financial dependency or interdependency. However, entitlement to the pension will depend on provision of evidence by the surviving partner on the scheme member's death that the conditions are met.
31. Pensionable service accrued from 1 April 2007 will automatically count towards pensions SNPs. Scheme members can elect to pay additional contributions to cover service before 1 April 2007 provided they are in pensionable employment. There is a time limit for making an election.
32. Full information about the nomination arrangements and the arrangements for paying additional contributions to cover service before 1 April 2007 will be available on the DE website www.deni.gov.uk

Potential Impact on Children's Pensions

33. If a SNP pension is payable, the pension paid to a surviving child of the scheme member would be at the normal children's pension rate of 1/320th. If no SNP is payable in respect of a scheme member who is single at death, the children's pension would be paid at the orphan's rate of 1/240th.

Additional Pension

34. The Past Added Years arrangement has been withdrawn and replaced with a facility for scheme members (and employers) to purchase index-linked additional annual pension up to a maximum of £5,000. The minimum amount of additional annual pension that may be purchased at any one time is £250. The upper limit is currently £5,000 but will be subject to periodic review by HM Treasury.
35. Payment to purchase additional pension may be made by a lump sum payment or by monthly deductions from salary over a defined period not exceeding 20 years or the scheme member's NPA, whichever is sooner.
36. The additional pension purchased can be for personal benefits only or personal and survivor benefits. (There is no option to purchase additional pension for a survivor pension only.) The additional pension purchased will be increased in line with RPI between the date of the election and the date the additional pension is paid. Once in payment, the additional pension will be uprated, in the same way as the main scheme pension.

Phased Retirement

37. All scheme members with pensionable service on or after 1 April 2007 will have the option of drawing down part of their main scheme benefits from age 55 onwards whilst continuing in pensionable employment, provided certain conditions are met.
38. A person can use this facility provided there has been a 25% reduction in the pensionable salary and a maximum of 75% of retirement benefits can be taken.

39. Additional pension (see above) can be drawn at the same time as a phased retirement providing that it has been paid for but the additional pension must be drawn in full.

SCHEME PROVISIONS WITHDRAWN

Past Added Years and Current Added Years

40. From 1 April 2007 the Past Added Year and Current Added Year provisions will no longer be available. Prior elections will be honoured although members will be unable to vary them.

Stepping Down Arrangements

41. The 'stepping down' provision that provided for payment of a two-part pension in circumstances where an employer certified that a person had moved to a lower paid post of less responsibility has been withdrawn. The arrangement ceases to have effect from 1 April 2007 but (valid) employer certifications in relation to changes of post that took effect before that date will be accepted up to 1 June 2007.
42. The stepping down arrangement that allowed certain scheme members to pay contributions on a notionally higher salary (based on a former higher salary) is withdrawn from 1 April 2007. Elections made in respect of changes of post that took place before that date will be honoured but, in the light of the improved average salary arrangements (described above) TPB will write to the individuals concerned to check that they still wish to pay contributions on the notional salary.

Allocation

43. The option for scheme members to allocate a portion of their pension to a spouse or civil partner has been withdrawn. Existing allocation elections will be honoured.

Further Information

- By necessity, the information given in this Annex is limited to a general description of the scheme changes. Full information about the scheme provisions from 1 April 2007 onwards is available on the DE's website www.deni.gov.uk. If the information you need is not covered in the DE website call Teachers' Pensions Branch on 028 7131 9000.
- TPB advise that it is preferable to download scheme literature and forms from their website to ensure the latest version is obtained.

THE TEACHERS' SUPERANNUATION (ADDITIONAL VOLUNTARY CONTRIBUTIONS) REGULATIONS 1994 ("AVC Regulations")

Note: Amendments to the AVC Regulations are contained within Schedule 1 to the Teachers' Pensions etc (Reform Amendments) Regulations (Northern Ireland) 2007. Material changes, which mainly flow from the main scheme changes described in Annex A, are as follows:

Definitions

1. The definition of NPA has been changed to give it the same meaning as that within the 1998 NITPS Regulations.
2. The definition of "retire" has been removed to reflect the change in approach to retirement and the fact that as the AVC scheme is regarded, for tax purposes, as a separate entity from the main scheme and so AVC benefits can be accessed independently of main scheme benefits.

Pensions for Partners

3. Contributors will be able to nominate a person as a surviving nominated partner who will receive benefits on the production of evidence of financial dependency/inter-dependency.

Annual Elections

4. Anyone working beyond NPA has to elect annually to renew any additional death-in-service cover they hold under the AVC facility

Five Year Pension Guarantee

5. The option for a lump sum payment representing the balance of a pension after a person's death (where the person has notified the pension provider that he wishes the pension to continue if he dies within 5 years) has been removed. This is in the light of HM Revenue and Customs' rule that such a payment would be an unauthorised payment under the Finance Act 2004 and incur tax penalties. The balance will now be paid as an ongoing pension for the remainder of the period.

Restriction on Recycling Lump Sums

6. As explained in paragraph 23 in Annex A, contributors will be asked to sign a declaration to confirm that he or she does not intend to re-cycle any lump sum into another pension-savings vehicle. Where a person refuses to make the declaration, no lump sum will be paid.

THE TEACHERS (COMPENSATION FOR REDUNDANCY AND PREMATURE RETIREMENT) REGULATIONS (Northern Ireland) 1991 (“PRC Regulations”)

Note: Amendments to the PRC Regulations are contained within Schedule 2 to the Teachers’ Pensions etc (Reform Amendments) Regulations (Northern Ireland) 2007. Material changes, which mainly flow from the main scheme changes described in Annex A, are as follows:

Partners’ Pensions

1. Provision is made to pay compensation pensions to nominated surviving partners where the main scheme conditions are met.

Duration of Spouses’, Civil Partners’ and Surviving Nominated Partners’ Pensions

2. Spouses’, civil partners’ and surviving nominated partners’ compensation pensions that are payable in respect of scheme members whose premature retirement benefits commenced on or after 1 April 2007 are payable for the lifetime of the recipient. As with main scheme pensions, widow, widower and civil partner compensation pensions that are payable in respect of a member who retired from a date prior to 1 April 2007 will remain liable to cessation on the recipient’s re-marriage, civil partnership or cohabitation.

Allocation

3. The option for individuals to allocate a portion of their annual compensation to a spouse or civil partner has been withdrawn. Existing allocation elections must, however, be honoured.

Restrictions on Recycling Lump Sums

4. As explained in paragraph 23 in Annex A, HM Revenue and Customs rules contain tax penalties if a person uses a lump sum to generate further retirement benefits. Compensating authorities must require individuals to sign a declaration to confirm that he or she does not intend to re-cycle any lump sum into another pension-savings vehicle.
5. If the declaration is not received within a time scale specified by the compensating body, the compensating body has power to avoid the tax penalty by converting the lump sum to additional annual compensation using the same factors that are used for the main scheme. The commutation factors are available on the DE website: www.deni.gov.uk.