



## **The Teachers' Pension Scheme (Amendment) Regulations 2014**

On 28 April 2014 the Department launched a further consultation on the reformed Teachers' Pension Scheme and associated arrangements. The consultation sets out the final regulatory provisions required to give full effect to reform of Teachers' Pension Scheme.

The Teachers' Pension Scheme (Amendment) Regulations 2014 (2014 amending regulations), which accompany this note, make amendments to the Teachers' Pension Scheme Regulations 2014 (TPSR 2014) with a view to ensuring the reformed Teachers' Pension Scheme will operate seamlessly with the current final salary arrangements and to include details of the scheme valuation. In addition, some of the amendments aim to improve the clarity/operation of parts of the existing arrangements, where, for example, experience from particular cases has shown a need to do so. The majority of the amendments are technical in nature or a result of provisions determined in overriding regulations and guidance set by HM Treasury.

### **Scheme valuations and operation of the employer cost cap and funding arrangements for the administration of the TPS**

HM Treasury directions ("the directions") and regulations set out the legal framework for undertaking and operating scheme valuations. The framework covers the technical details of the processes involved and also sets out what the Department is required to provide for in the TPS regulations in order to comply with the requirements involved.

The 2014 amending regulations, at regulation 37, insert a new schedule 4 into the Teachers' Pension Scheme Regulations 2014 to comply with the directions. The full TPS valuation report is available on the Teachers' Pensions website at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

### **Funding arrangements for the administration of the TPS**

The consultation document proposes that the cost of administering the Teachers' Pension Scheme (e.g. contract fees for the scheme administrator, the scheme actuary and the scheme medical advisor) are devolved to scheme employers in the form of an administration charge.

Regulation 16 provides for an amendment to regulation 196 of the TPSR 2014 requiring scheme employers to pay each month an administration charge at a percentage of pensionable earnings. The percentage rate will be set by the scheme manager and communicated to all employers. The consultation includes an estimate that the initial administration charge will be 0.08% of the employers' salary costs.

## **Member contribution rates**

In line with ‘Public Service Pensions: good pensions that last’ the PFA for the reformed TPS includes a commitment that teachers would pay an average contribution rate of 9.6% from April 2015. In developing the proposed contribution structure the Department engaged with trade unions and employer representatives. The consultation sets out the Department’s analysis of evidence and proposes a six tier structure based on actual salary.

Regulation 14 sets out the member contribution rate proposed to commence on 1 April 2015 and amends the current member contributions provision to allow for contributions based on actual salary rather than the member’s full-time equivalent salary. Furthermore this amendment provides that the salary bands under which the member’s contribution rate is determined, will be increased at a rate equal to CPI each scheme year to mitigate the possibility of members moving to a higher contribution rate as a result of natural pay progression.

## **Proposed miscellaneous amendments to the TPS Regulations 2014**

### **Pre-1997 ill-health retirees**

Regulation 6(d) of the amending regulations provides that a person, who retired on ill-health grounds before 1 April 1997, is precluded from entering pensionable service. This maintains the position for a number of existing members who retired on ill-health grounds before 1 April 1997 and are able to continue in limited part-time employment and retain their pension – but only on the basis they do not re-join the scheme.

This does not prevent someone who has regained health from re-joining the scheme, but their pension would cease if they are below their final salary Normal Pension Age (NPA) when they do so.

### **Multiple employments including at least one irregular employment**

Regulation 41 of the TPSR 2014 sets out the means of calculating salary for insurance-type benefits paid by the scheme where a person has a combination of regular and irregular employments.

Having reviewed arrangements again, it is acknowledged that members who have a full-time contract could be unduly disadvantaged if they also have a small portion of irregular part-time earnings where the “annual rate of those pensionable earnings” (i.e. the full-time equivalent salary) is significantly lower. The overall salary for insurance-type purposes would be reduced in these circumstances.

In view of this, the consultation proposes that a separate calculation, excluding irregular employments, is undertaken, in accordance with regulation 40, in order to determine which

rate of “annual rate of pensionable earnings” is the highest. Regulation 8 of the amending regulations provides for this change.

## **Payment of transfer values**

Regulation 205 of the TPSR 2014 provides that a person can transfer to another club scheme after attaining NPA and up to 75 years of age. As this provision is only available for transfers to and from other club schemes an amendment has been made at regulation 200, to provide that non-club transfers cannot be made after the member has attained NPA. This amendment is provided for in regulation 17 of the amending regulations.

## **Change for the Lycée Français Charles de Gaulle**

The Lycée Français Charles de Gaulle de Londres is currently an accepted school, but, in order to allow different treatment between French nationals, who participate in the French Civil Service scheme, and other teachers an amendment to schedule 1 of the TPSR 2014 has been proposed. The amendment has been provided in regulation 20 of the amending regulations and ensures that in future teachers in the Lycée Français Charles de Gaulle de Londres school will be admitted to the TPS with employer consent under Part 4 of this Schedule.

## **Proposed technical amendments to the TPS Regulations 2014**

### **Commutation: small pensions for family benefits**

Regulation 13 of the amending regulations provides for an amendment to regulation 174 of the 2014 regulations so to refer to paragraph 20 of Schedule 29 to the Finance Act 2004. The purpose of this amendment is to future proof the way in which changes to the small pensions commutation limit are applied to family benefits in the TPS (and thereby take account of the new higher limit announced in Budget 2014).

### **Transition members entering the career average arrangement**

Regulation 23 of the amending regulations provides for the proposed amendment to ensure that those members who were between 13 years and 6 months and 13 years and 7 months from NPA on 1 April 2012 receive tapered protection. The members involved will enter the career average arrangement on 1 June 2015 rather than 1 April 2015 as intended in the PFA.

As a consequence of this, amendments are also needed to the dates that apply to members with no protection, and who enter the career average arrangement from 1 April 2015. These members will have an NPA on, or after, 1 October 2025 rather than 2 September 2025.

Regulation 22 provides the same amendment in relation to those who enter the TPS following service in a Fair Deal scheme.

## **Re-calculation of pre-6 January 2007 ill-health enhancement on subsequent retirement**

Regulation 28 of the amending regulations inserts new paragraphs 39A into schedule 3 of the TPSR 2014 to provide clarity that service in the career average arrangements will be taken into account in re-calculating any enhancement under the final salary scheme that was granted in accordance with the 1997 Teachers' Pensions Regulations.

By taking the career average arrangements into account, there will be consistent treatment with the calculations for ongoing final salary members and ensure there is no excessive benefit from both enhancement and benefits in respect of future service.

## **Review of benefits to cover pre 6 January 2007 ill-health retirees who subsequently return to health, enter the career average arrangements and are then awarded ("TIB") enhancement.**

Regulation 28 of the amending regulations also inserts new paragraphs 39B into schedule 3 of the TPSR 2014. This ensures that overall enhancement to pension is reasonable where pre 6 January 2007 ill-health retirees who subsequently return to health and scheme employment then become entitled to TIB in the career average scheme whilst retaining enhancement in the final salary scheme. The scheme manager may, after taking actuarial advice, determine the appropriate amount of enhancement, for TIB or both TIB and previously awarded enhancement.

## **Career average arrangements for the calculation of dependant's entitlement**

Regulation 30 deletes sub-paragraph (2) of paragraph 41 to schedule 3 of the TPSR 2014, to allow for Regulation 31 of the amending regulations to insert new paragraphs 41A to 41C. These paragraphs separate the elements of sub-paragraph (2) of regulation 41 to provide clarity to the method used for determining calculation of surviving adult benefits where the member is a transitional member.

Regulations 32 and 33 of the amending regulations removes subparagraph (2) from the TPSR 2014 and replaces it with regulations 43A, 43B and 43C to provide the same clarity in relation to the method used for determining the calculation of surviving child benefits where the member is a transitional member as provided by regulation 31 in relation to surviving adult benefits.

## **Additional amendments not specified in the consultation document**

The Department also proposes to make the following technical amendments in addition to those set out in the original consultation document. These are primarily drafting corrections but also include some amendments to ensure the effective operation of the TPS post reform.

Regulation 2 amends the name of the pension scheme created by the TPSR 2014 to the “Teachers’ Pension Scheme 2015”, to reflect the date the scheme will be implemented.

Regulation 3 deletes the term “appropriate factor” from the interpretation sections as this term is not used in the regulations. It further clarifies the meaning of the term “sending scheme”.

Regulation 4 provides the scheme manager with a power to delegate functions including the ability to delegate the power to delegate. This amendment does not dilute the scheme manager’s responsibility for the scheme, rather it fits with the power provided in the Act to, for example, delegate administration of the scheme to a third party administrator.

Regulation 5 corrects a grammatical error in regulation 9 of the TPSR 2014 by inserting the word “which”.

Regulation 7 corrects a grammatical error in regulation 31 of the TPSR 2014 by replacing the word “earlier” with “earliest”.

Regulation 9 corrects a typographical error in regulation 117 of the TPSR 2014, by replacing the reference to “paragraph (b)” in sub-paragraph (3) to “sub-paragraph (ii)”

Regulation 10 clarifies the method used to calculate the short-term rate of additional (surviving adult) pension, by making it clear that the short-term rate will always be at least the same as the long term rate.

Regulation 11 amends regulation 150 to the TPSR 2014 to correct the formula for calculating the short-term rate of child pension. The amendment brings the TPSR 2014 in line with the existing scheme by providing that the value of a short-term child’s pension is divided by the number of eligible children.

Regulation 12 corrects a drafting error by inserting “(P’s)” after the first occurrence of the word “person”.

Regulation 18 clarifies that sub-paragraph (2) of regulation 220 of the TPSR 2014, applies equally to the member and the member’s personal representative.

Regulation 19 corrects a grammatical error in regulation 223 of the TPST 2014.

Regulation 21 inserts the definitions of the “TPR 1997” regulations and “TPR 2010” regulations into schedule 3 of the TPSR 2014 and further clarifies the meaning of “transition date”.

Regulation 22 corrects a drafting error in paragraph 11 of schedule 3 by removing the word “time”.

Regulation 24 provides an amendment to paragraph 21 of schedule 3 to the TPSR 2014. This amendment removes the erroneous restriction which would prevent those who meet the tapered protection conditions from becoming transition members.

Regulation 26 clarifies that, in determining the final salary to be used in calculating benefits accrued under the final salary arrangements, the provisions set out in both the TPR 2010 and schedule 7 to the Public Service Pensions Act 2013 will apply.

Regulations 27 & 29 correct paragraph 39 & 40 of schedule 3 to the TPSR 2014 by amending the term “regulations” for “rules” so to adhere to the definitions set out in paragraph 1 of schedule 3.

Regulations 34 & 35 clarify the process for recovering previously paid lump sums where a member dies in or out of service, to confirm that lump sums which have already been recovered will not be taken into consideration.

Regulation 36 corrects a drafting error by removing the words “Transfer payments in respect of the existing scheme” from paragraph 51 and inserting these as the heading to paragraph 52.

Regulation 37 confirms that an application made by a transition member under the TPSR 2014 regulations will also be an application for any benefits under the TPR 2010 in respect of service in the final salary arrangements.

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