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STATUTORY INSTRUMENTS

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**2014 No. 0000**

**EDUCATION, ENGLAND AND WALES**

**The Teachers' Pensions (Amendment) Regulations 2014**

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| <i>Made</i>                   | - - - - | **** 2014      |
| <i>Laid before Parliament</i> |         | **** 2014      |
| <i>Coming into force</i>      | - -     | 1st April 2014 |

The Secretary of State for Education makes these Regulations in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972(a).

The Secretary of State has consulted with the persons referred to in section 9(5) of that Act.

In accordance with section 9(1) of that Act, these Regulations are made with the consent of the Treasury(b).

**Citation and commencement**

1. These Regulations may be cited as the Teachers' Pensions (Amendment) Regulations 2014 and come into force on 1st April 2014.

**Amendments to the Teachers' Pensions Regulations 2010**

2. The Teachers' Pensions Regulations 2010(c) are amended in accordance with regulations 3 to 8.

3.—(1) In regulation 7 (employment not pensionable: general) substitute—

(a) paragraph (7) with—

“(7) Paragraph (6) ceases to apply if—

- (a) the person makes an election under regulation 10 (election for employment to be pensionable) by reason of falling within paragraph (2)(c) of that regulation,
- (b) the person enters other employment which is pensionable employment,

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(a) 1972 c. 11. Section 9 was amended by sections 4, 8 and 11 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7); paragraph 7 of Schedule 8 to the Pension Schemes Act 1993 (c. 48); article 107 of S.I. 2001/3649; and article 5 of, and paragraph 27 of Part 2 of Schedule 2 to, S.I. 2010/1158. Section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990.

(b) See S.I. 1981/1670.

(c) S.I. 2010/990, as amended by S.I. 2011/614, S.I. 2012/673 S.I 2012/979, S.I. 2012/2270 and S.I. 2013/275.

- (c) the person’s employer makes arrangements under regulation 3(2) (automatic enrolment) or 5(2) (automatic re-enrolment) PA 2008 in respect of that employment, or
  - (d) the person’s employer is a participating employer.”.
- (b) paragraph (9) with—
- “(9) Paragraph (8) ceases to apply if—
- (a) the person makes an election under regulation 10(1) (election for employment to be pensionable) by reason of falling within paragraph (2)(d) of that regulation, or
  - (b) enters pensionable employment,
  - (c) or the person’s employer makes arrangements under section 3(2) (automatic enrolment) or 5(2) (automatic re-enrolment) PA 2008 in respect of that employment, or,
  - (d) the person’s employer is a participating employer.”.
4. At the end of sub-paragraph (b) of paragraph (4) of regulation 9 insert—
- “; and
- (c) the relevant transfer date mentioned in regulation 14A (meaning of “accepted member”).”.

5. After regulation 14 (accepted function providers) insert—

**“Meaning of “accepted member”**

- 14A.**—(1) A person (P) is an accepted member when—
- (a) P is employed by a valid scheme employer, and
  - (b) the conditions in paragraphs (2) to (4) are met.
- (2) Immediately prior to the transfer date P must have been—
- (a) in pensionable employment;
  - (b) eligible to have been in pensionable employment; or
  - (c) employed under a contract of employment and subject to Fair Deal.
- (3) Immediately prior to and on the transfer date P is employed to undertake the same, or substantially the same, transferred service.
- (4) P is employed to undertake a transferred service.
- (5) P will cease to be an accepted member from the date that P ceases to satisfy paragraph (1).

**Meaning of “valid scheme employer”**

- 14B.** A valid scheme employer is—
- (a) an employer mentioned in paragraph 2 of Schedule 2,
  - (b) a special school which is not maintained by a local authority,
  - (c) a school maintained by a local authority, where the employer is the governing body,
  - (d) an employer under Fair Deal,
  - (e) an employer that was a participating employer immediately before the relevant transfer date.

### **Meaning of “transfer date”**

**14C.** “Transfer date” is the effective date the relevant transferred services are transferred between a valid scheme employer and a participating employer.

### **Meaning of “transferred service”**

**14D.** “Transferred service” means a service specified in the description of employment in the Participation Agreement.

### **Meaning of “participating employer”**

**14E.—**(1) An employer (E) may only be a participating employer in respect of transferred services when the conditions in paragraph (2) are met.

(2) The conditions are—

- (a) E is in a contract for services with a valid scheme employer under which at least one employee satisfies the conditions in regulation 14A(2).
- (b) E is in a Participation Agreement, and
- (c) the Secretary of State accepts that E is a participating employer.

(3) The Secretary of State will accept E as a participating employer by written notice specifying the date when E becomes a participating employer.

(4) E will cease to be a participating employer on such a date as may be specified in a written notice from the Secretary of State.

(5) When requested by the Secretary of State E must provide the Secretary of State with a guarantee.

(6) A notice under paragraph (4) may be given when –

- (a) E fails to comply with any provision of these Regulations or TSAVCR 1994,
- (b) the Secretary of State considers that a guarantee provided under paragraph (5) is insufficient because—
  - (i) the guarantee lapses, or
  - (ii) there is a change in circumstances.
- (c) a proposal for a voluntary arrangement has been made or approved in relation to E under Part 1 of IA 1986,
- (d) an administration application has been made, a notice of intention to appoint an administrator has been filed with the court or an administrator has been appointed for E under Schedule B1 to IA 1986,
- (e) a receiver, manager or administrative receiver has been appointed for E under Part 3 of IA 1986,
- (f) a winding-up petition has been presented, a winding-up order has been made or a resolution for voluntary winding-up has been passed in relation to E under Part 4 or 5 of IA 1986, or
- (g) notice has been received that E may be struck off the register of companies or an application to strike it off has been made under Part 31 of CA 2006.

(7) Where E is a participating employer, E must give written notice to the Secretary of State immediately upon any actual or proposed change in its status, including a take-over, reconstruction or amalgamation, insolvency, winding up, receivership or liquidation and a material change to the body’s business or constitution.

(8) The Secretary of State may terminate the Participation Agreement on notice.

(9) In this regulation “guarantee” means a bond, guarantee or indemnity in a form and amount, and provided by a person, approved by the Secretary of State in respect of sums due, under these Regulations and TSAVCR 1994, from the participating employer.

**Meaning of “Participation Agreement”**

**14F.**—(1) “Participation Agreement” means a contractual agreement, relating to participation in the Scheme, between the Secretary of State and the employer of a person eligible to be an accepted member by virtue of paragraph 14A of Schedule 2, (and which may also include a third party).”

6. Schedule 1 is amended in accordance with the table immediately following this paragraph on the following basis—

- (a) below the term in the “Expression” column insert the term in column A, and
- (b) below the meaning in the “Meaning” column insert the words in column B.

| <i>Expression</i>                           | <i>A</i>              | <i>Meaning</i>  | <i>B</i>   |
|---|-----------------------|---|--|
| accepted school                             | accepted member       | see regulation 13 (accepted school)   | see regulation 14A.  |
| excluded employment                         | Fair Deal             | see regulation 7(12) (employment not pensionable; general)  | as provided in the document “Staff Transfers from Central Government: A Fair Deal for Staff Pensions” published in 1999 and the further guidance note “Fair Deal for Staff Pensions: Procurement of Bulk Transfer Agreements and Related Issues” in June 2004. |
| UK transferee with NPS 60 and NPA 65 rights | valid scheme employer | see regulation 51(2) (meaning of UK transfer with NPA 60 rights, etc).  | see regulation 14B.  |
| transfer of undertakings                    | transfer date         | (a) where the transfer takes place or after 6th April 2006, a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 2006; and (b) where the transfer takes place before that date, a transfer of undertakings within the meaning given by the Transfer of Undertakings (Protection of Employment) Regulations 1981. | see regulation 14C.  |
| transfer day                                | transferred service   | (in relation to a pension sharing order) the day on which the pension sharing order   | see regulation 14D   |

|                        |                         |   |                    |
|------------------------|-------------------------|---|--------------------|
| part-time              | participating employer  | takes effect.<br>employment is “part-time” if the contract requires the employee to work for less than the whole of the working week. | see regulation 14E |
| participating employer | Participation Agreement | see regulation 14E  | see regulation 14F |

7. After paragraph 14, in Part 1 of Schedule 2, insert—

“**14A.** An accepted member employed by a participating employer.”.

8. In paragraph 2 of Schedule 3 (employees’ and employers’ contributions), for the table in subparagraph (2), substitute—

“**Table**

| <i>Annual contributable salary</i> | <i>Rate</i> |
|------------------------------------|-------------|
| Up to £14,999                      | 6.4%        |
| £15,000 to £25,999                 | 7.2%        |
| £26,000 to £31,999                 | 8.3%        |
| £32,000 to £39,999                 | 9.5%        |
| £40,000 to £44,999                 | 9.9%        |
| £45,000 to £74,999                 | 11.0%       |
| £75,000 to £99,999                 | 11.6%       |
| £100,000 and above                 | 12.4%       |

Date

Minister of State  
Department for Education

We consent

Date

Two of the Lords Commissioners of Her Majesty’s Treasury

#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st April 2014, amends the Teachers’ Pensions Regulations 2010 (‘TPR 2010’).

*Regulations 3 to 7* amend the TPR 2010 to give effect to the revised ‘new’ Fair Deal, found in “Fair Deal for staff pensions: staff transfer from central government” published by HMT in October 2013 (this can be found [here]). This extends access to the teachers’ pension scheme for teachers moved from the public sector to an independent contractor by way of a compulsory transfer under the same terms as other members.

*Regulations 3 and 4* provide that all staff eligible to be in pensionable employment, but who are not in pensionable employment, will be treated as being in pensionable employment on the effective transfer date.

*Regulation 5* inserts a number of regulations into TPR 2010 which give effect to new Fair Deal by introducing the concepts of “accepted member”, “valid scheme employer” and “participating employer”.

*Regulation 6* amends Schedule 1 (the glossary).

*Regulation 7* amends Part 1 of Schedule 2 (pensionable employment without election) to extend pensionable employment to those teachers who have been transferred to the private sector.

*Regulation 8* amends to Schedule 3 of the TPR 2010 so as to provide new percentage rates for employees’ ordinary contributions which are to be calculated monthly, by reference to the full-time equivalent annual rate of each employee’s contributable salary for that month.

An impact assessment has not been produced for this instrument as it has no impact on businesses, the public sector or civil society organisations.