



The Teachers' Pensions (Miscellaneous Amendments) (No. 2) 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' Pensions (Miscellaneous Amendments) (No. 2) Regulations 2014 (2010 amending regulations), which accompany this note, make amendments to the Teachers' Pensions Regulations 2010 with a view to ensuring the reformed Teachers' Pension Scheme will operate seamlessly with the current final salary arrangements. 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.

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 9 provides for an amendment to regulation 30 of the TPR 2010 requiring scheme employers to pay each month an administrative levy 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 23 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, is 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.

Club transfers and the arrangements for members with comparable British service (CBS) and comparable United Kingdom service (CUKS), including technical amendments

In view of the changes taking place from 1 April 2015 in respect of time limits for requesting club transfers, the existing arrangements for CUKS and CBS transfers in the existing Final Salary are to be removed and replaced with the new club rules. There will be a transition period of one year to 31 March 2016 whereby members with previous rights in another CUKS or CBS arrangement who joined the TPS before 1 April 2015 will be able to transfer those rights on the existing basis. Any election to transfer rights after 31 March 2016 will be subject to the new club rules. Under the new club arrangements for transfers (to be published by the Cabinet Office), as well as the existing 12 month rule for members to request a club transfer from the date of joining pensionable service, members will need to exercise this option before a break of more than 5 years occurs between the relevant public service schemes. In providing for the above amendments, regulations 10 and 11 separate regulation 31 of the TPR 2010 into 4 regulations, thus providing clarity to the different types of transfer and conditions for each. Specifically, the amendments to the provisions in CBS transfers are set out in new regulation 31B which establishes a time limit for CBS transfers and amendments to transfers into the TPS in regulation 35 (as provided for in amending regulation 12). In addition a technical amendment has been made to regulation 51 of the TPR 2010, to clarify the definition of a "UK Transferee with NPA 60 rights". This technical amendment confirms that members with previous CBS rights who join the TPS before 1 April 2015 can retain a NPA of 60 if those rights are transferred to the TPS on or before 31 March 2016.

The consultation proposes amendments in line with proposals for the 2014 regulations to allow club transfers post NPA and up to age 75. The amending regulations, at regulation 11, which separates the elements of regulation 31 of the TPR 2010, inserts regulation 31A which provides that a member may transfer under club scheme rules up to the age of 75.

Furthermore amendments to schedule 6 are provided at regulation 26 in respect of members who transfer into the TPS from other CBS or CUKS schemes.

Consequential amendments to the 2010 Regulations

Abatement

In addition to allowing for pension from the career average arrangements to be taken into account in the calculation of abatement for final salary pension, the amending regulations, at regulation 17, have split the abatement provisions with a view to providing greater clarity.

Ill-health provisions

In line with proposals for the 2014 regulations, the consultation proposed that the final salary arrangements are amended to better allow for 'slow to develop' or 'difficult to diagnose conditions'. The timescale for 'in-service' applications (and thereby the chance to access enhanced benefits) will be increased from 6 months to 2 years for applications received on, or after, 1 April 2015. The amending regulations provide for this change at regulation 27. The consultation also suggests that an amendment to regulation 65 would be required, however after consideration of the proposed amendments, the Department has concluded the changes can be made as drafted and an amendment to regulation 65 is not required.

Miscellaneous amendments to the Teachers' Pensions Regulations 2010

The consultation proposes an amendment to regulation 121 (forfeiture) to make the process, including how to make representations, more clear. Following further analysis of the current regulations, and discussion with legal advisers, the Department is satisfied that the current regulations do not require amendment and that the desired clarification of the forfeiture process can best be achieved by providing further guidance, rather than legislative amendments.

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 2 of the TPR 2010 has been proposed. The amendment has been provided in regulation 22 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 3 of this Schedule.

An amendment has been included in regulation 28 to remove, in relation to members' own benefits, the limit whereby enhancement to family benefit service cannot total service above 40 years (before the member would have reached 60). The overall limit on reckonable service of 45 years will still apply.

An amendment has been made (regulation 30) to paragraph 26 of Schedule 13 to clarify that former members of the NHS Pension Scheme retain a right to NPA of 55 if they were made compulsorily redundant before the age of 50. This is to mirror regulation R2(3)(b) of the National Health Service Pension Scheme Regulations 1995 for former nurses etc and R3(5) for former mental health officers.

Technical amendments to the Teachers' Pensions Regulations 2010

Cap on contributable salary

The consultation proposes to amend this regulation to clarify that only those members whose annual rate of contributable salary was above the earnings cap before, or on, 31 March 2008 (£112,800) are affected by the earnings cap in future years. In addition, amendments are required to ensure the earnings cap continues to increase in line with the original inflation index, because the previous provision (the Registered Pension Schemes (Modification of the Rules of Existing Schemes) Regulations 2006) no longer has effect. These amendments have been provided for in regulations 8 and 13 of the amending regulations.

Calculation of retirement benefits after ill-health pension ceases to be payable: supplemental

For members with mixed service, it is proposed that the slide-back calculation (whereby previous enhancement is re-calculated) is applied to NPA 60 rather than NPA 65 service. By attributing the enhancement to NPA 60 service, automatic lump sums previously paid can be recovered appropriately under regulation 62(5). To allow for this an amendment is included in regulation 18 of the amending regulations.

Commutation: small pensions in respect of family members

Regulation 20 of the amending regulations provides for an amendment to regulation 119 of the 2010 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).

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.

References to the Council of British Independent Schools

At regulation 3, an amendment is included to amend the reference and definition “COBIS” with “COBIS” meaning “the Council of British Independent Schools”.

Amendments to regulation 13 (Accepted schools)

An amendment is included at regulation 4 to provide grammatical correction.

Amendment to regulation 14A (Meaning of “accepted member”)

Following feedback from the Joint Committee on Statutory Instruments (JCSI), an amendment has been included at regulation 5 to clarify the meaning of an accepted member.

Amendment to regulation 16 (Contributable salary – residential accommodation)

The amendment included at regulation 7 removes the words “less the amount of the tax chargeable on contributions of that amount under section 205 of FA 2004” from regulation 16 of the TPR 2010. This is due to this tax charge relating to “Short service refunds” of contributions only and, therefore, is not applicable to this regulation.

Amendments to regulation 55 (Retirement benefits qualification service)

Regulation 15 amends regulation 55 of the TPR 2010 so to ensure that qualification service in respect of CBS and CUKS service is subject to the same time restraints as transfers from CBS and CUKS schemes.

Amendment to regulation 59 (Cessation of phased retirement pension)

In considering the application of phased retirement, and specifically to circumstances in which a phased retirement may fail, the Department proposes to amend the provisions of the TPR 2010 to bring it in line with the career average arrangements. This regulation provides the conditions under which a phased retirement will fail. At present, the 2010 regulations will consider a phased retirement failed if the annual rate of the member’s contributable salary and pension exceeds 80%

of the member's salary of reference. This means that if the annual rate in any given month exceeds 80% of the salary of reference the phased retirement fails, even if over the full year the amount of contributable salary and pension would be less than the salary of reference.

The amendment set out in regulation 16 makes changes to the method of calculating the value of salary and pension a member can receive before a phased retirement would fail by amending the reference to the "annual rate of P's contributable salary" to the "amount of contributable salary during the 12 months", thus allowing the total amount of salary and pension received to accumulate to the value of the salary of reference before the phased retirement will cease.

Amendment to regulation 117 (Person to be treated as electing to receive lump sum in place of pension)

Regulation 19 makes a correction to regulation 117 of the TPR 2010 by substituting the reference to "117" with "116".

Amendment to regulation 123 (Reduction of benefits: lifetime allowance charge)

An amendment to regulation 123 of the TPR 2010 is proposed at regulation 21 of the amending regulations to allow for a reduction in the amount of a member's benefit on account of the annual allowance charge where a notice under 238A of the Finance Act 2004 has been served.

Amendments to Schedule 4 (Contributions for additional pensions)

The amending regulations include two technical changes to schedule 4. The first is a grammatical correction which inserts a missing "to" into paragraph 4, while the second amendment is to clarify who is to receive a survivor's benefit in respect of additional pension.

Amendment to Schedule 5 (Family benefit contributions), Part 1 (Elections)

Regulation 25 of the amending regulations makes a correction to the calculation set out in paragraph 16 of Schedule 5 by inserting "divided by 100."

Amendment to Schedule 10 (Modified application in certain cases)

Regulation 29 makes a grammatical correction to paragraph 2, sub-paragraph (6), of Schedule 10, by removing superfluous words.