



Department  
for Education

**Teachers' Pensions  
Department for Education,  
School Employment Division  
First Floor, Bishopsgate House  
Feethams  
Darlington, DL1 5QE**

July 2016

Dear Colleague

**Consultation on technical amendments to the Teachers' Pension Regulations 2010 and the Teachers' Pension Scheme Regulations 2014**

Following the introduction of reforms to the Teachers' Pension Scheme, in April 2015, the Department has identified technical amendments which are required to the Teachers' Pensions Regulations 2010 (TPR 2010) and the Teachers' Pension Scheme Regulations 2014 (TPSR 2014).

This letter invites comments on a set of amending regulations, covering amendments to the respective regulations (TPR 2010 and TPSR 2014). These relate to four specific areas: ill-health retirement; serious ill-health commutation; phased retirement in relation to irregular workers; and minor technical amendments, and are needed to ensure the arrangements work fully as intended, in line with previous consultations on the regulations involved.

The explanatory note to the regulations provides more detail on the changes involved but in summary they are as follows:-

Ill-Health

As part of reforms to the TPS, the Department amended the arrangements covering applications for ill-health retirement benefits. This included extending the time for in-service applications from six months to two years in order to better provide for those with slow to develop and hard to diagnose illnesses.

In order to fully deliver the intended policy, an amendment is required to the TPR 2010 to remove the condition that the member must be permanently incapacitated at the point of leaving pensionable service. [Schedule 7, para 3(2) and (3)]

A further amendment is proposed to the TPR 2010 and the TPSR 2014 to reinforce the need for a link between the illness at the point of leaving and the illness at the time of application. [Schedule 7, para 3 (4) of the 2010

regulations and regulation 107 (b) and (c) in Chapter 6, section 1 of the 2014 regulations]

These changes make it absolutely clear that members who are ill at the point of leaving, but have not yet met the incapacity condition, can subsequently (within two years) make an application which will be considered against the in service criteria where the same/a connected illness is involved.

### Serious Ill-Health Commutation

The policy here is that once a member chooses ill health commutation and the application for that is approved, then that is the benefit that will be paid, including in the unfortunate event that the member dies between the application being accepted and a payment being made. This follows the overall policy intention within the TPS that the benefit chosen by the member is, where possible, the benefit that is paid. The regulations as currently drafted do, however, create the possibility for some ambiguity over the payments that should apply. An amendment is, therefore, proposed in order to provide clarity in line with the policy intention.

### Phased Retirement Pensionable Earnings

The current provisions require that a member, who elects for phased retirement, must take a reduction in pensionable earnings of no less than 20% of their pre-phased retirement pensionable earnings. Pre-phased retirement earnings are currently determined using the member's average annual earnings in the six months immediately before taking phased retirement. This provision does not appropriately cover for all member types; in particular it can cause problems for irregular workers where, for example, the sixth month period immediately before phased retirement includes unpaid holidays.

To address this issue the Department proposes changing the pre-phased retirement average earnings calculation to the average over the last 12 months.

### Technical Amendments

The Department is proposing to make the following technical amendments to ensure the policy intention is clearly reflected in the regulations:-

- An amendment to the wording of the regulation for late retirement actuarial enhancement in the career average arrangements to clarify that only accrued pension up to NPA is enhanced.
- An amendment to change the reference to "employer" in Schedule 1, 8(1) of the 2014 regulations to "scheme manager" to correct a drafting error.

We would welcome any comments you have on the draft regulations by 16 September 2016 and these can be sent either by emailing:

[Tpsamendments2016.CONULTATION@education.gsi.gov.uk](mailto:Tpsamendments2016.CONULTATION@education.gsi.gov.uk)

Or by letter to:

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Yours sincerely

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