

**2011 No. 614**

**EDUCATION, ENGLAND AND WALES**

**The Teachers' Pensions (Miscellaneous Amendments)  
Regulations 2011**

<i>Made</i> - - - -	<i>3rd March 2011</i>
<i>Laid before Parliament</i>	<i>9th March 2011</i>
<i>Coming into force</i> - -	<i>1st April 2011</i>

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<sup>(a)</sup>.

The Secretary of State has consulted 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<sup>(b)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Teachers' Pensions (Miscellaneous Amendments) Regulations 2011 and come into force on 1st April 2011.

**Amendments**

2.—(1) The Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994<sup>(c)</sup> are amended in accordance with Schedule 1.

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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. 1994/2924.

(2) The Teachers' Pensions Regulations 2010(a) are amended in accordance with Schedule 2.

28th February 2011

*Nick Gibb*  
Parliamentary Under Secretary of State  
Department for Education

We consent

3rd March 2011

*Jeremy Wright*  
*Michael Fabricant*  
Two of the Lords Commissioners of Her Majesty's Treasury

## SCHEDULE 1

Regulation 2(1)

### Amendments to the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994

#### Provision for lump sum death benefit

1. For regulation 5(3)(c)(b), substitute—

“(c) in respect of every pension to be provided, whether the annual rate of the pension—

- (i) is to be fixed,
- (ii) is to vary in accordance with the Index,
- (iii) is to increase yearly by a specified percentage,
- (iv) where the authorised provider offers pensions which vary in accordance with an index of prices other than the Index, is to vary in accordance with the index specified in the notice, or
- (v) is to be an Investment Linked Pension.”.

#### Outward transfers

2.—(1) In regulation 11(1)(c), omit “(b) and (c)”.

(2) For regulation 11(2)(d), substitute—

“(2) A transfer value shall not be paid pursuant to paragraph (1) in respect of a person who has given written notice to the Secretary of State under regulation 12(5).”.

#### Retirement and dependants' pensions

3. For regulation 12(5)(d)(e), substitute—

“(d) in respect of every pension to be provided, whether the annual rate of the pension—

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- (a) S.I. 2010/990.
  - (b) Regulation 5(3)(c) was amended by regulation 3 of S.I. 2006/666.
  - (c) Regulation 11(1) was amended by regulation 7(a) of S.I. 2006/736 and by regulation 2 of S.I. 2006/2214.
  - (d) Regulation 11(2) was amended by regulation 7(b) of S.I. 2006/736, by regulation 2 of S.I. 2006/2214 and by paragraph 5 in Part 1 of Schedule 11 to S.I. 2010/990.
  - (e) Regulation 12(5) was amended by regulation 5 of S.I. 2006/666, by regulation 8(b) of S.I. 2006/736 and by paragraph 4(c) of Schedule 1 to S.I. 2006/3122.

- (i) is to be fixed,
- (ii) is to vary in accordance with the Index,
- (iii) is to increase yearly by a specified percentage,
- (iv) where the authorised provider offers pensions which vary in accordance with an index of prices other than the Index, is to vary in accordance with the index specified in the notice, or
- (v) is to be an Investment Linked Pension.”.

## SCHEDULE 2

Regulation 2(2)

### Amendments to the Teachers’ Pensions Regulations 2010

#### **Additional paternity leave and additional statutory paternity pay**

1.—(1) In the provisions specified in sub-paragraph (2), for “or paternity” substitute “, paternity or additional paternity”.

(2) The provisions are—

- (a) regulation 7(2)(b),
- (b) regulation 40(9)(a), and
- (c) in Schedule 1 (glossary of expressions), the entry in the right-hand column corresponding to the expression “non-pensionable family leave” in the left-hand column.

(3) In the provisions specified in sub-paragraph (4), after “paternity” insert “, additional paternity”.

(4) The provisions are—

- (a) regulation 15(2)(b) and (c),
- (b) regulation 22(3),
- (c) regulation 43(4)(b),
- (d) regulation 95(2)(a),
- (e) regulation 98(3)(a), and
- (f) regulation 131(1)(g).

(5) At the end of regulation 7(2)(c), insert “, or additional statutory paternity pay”.

#### **Election to pay contributions by a person serving in a reserve force**

2. For regulation 19(8) to (10), substitute—

“(8) Subject to paragraph (9), the notional salary of a person who makes an election under this regulation is the amount which would have been the person’s contributable salary if pensionable employment had not ceased and the person had continued to be employed in the same post and on the same terms increased on 1st April following the beginning of the period specified in paragraph (3) and on each subsequent 1st April during that period by (RI-RE)/RE, where—

- (a) RI is the retail prices index for the March immediately preceding the April in which the increase occurs, and
- (b) RE is the retail prices index for the month in which the period began.

(9) From 2nd April 2011, the notional salary of a person who makes an election under this regulation is the amount specified in paragraph (10) increased by the amount (if any) by which it would have been increased if it had been an official pension within the meaning

of section 5(1) of PIA 1971(a) beginning, and first qualifying for increases under that Act, on the later of—

- (a) 2nd April 2011, and
  - (b) the day after the day on which the pensionable employment ceased.
- (10) The amount is—
- (a) in relation to an election made under this regulation on or before 1st April 2011, the notional salary calculated under paragraph (8) including the increase made on 1st April 2011, or
  - (b) in relation to an election made under this regulation after 1st April 2011, the person's contributable salary immediately before the pensionable employment ceased.”.

### **Payment of transfer values**

3. In regulation 31(5)(b), for “comparable British service” substitute “a comparable British scheme”(b).

### **Restriction on average salary**

- 4.—(1) Regulation 39 is amended as follows.
- (2) In paragraphs (3) and (4), for “31st March 2011” substitute “1st April 2011”.
  - (3) For paragraphs (5) to (8), substitute—
    - “(5) The fixed amount where the last day of P's average salary service falls in the financial year ending on 31st March 2012, or in any subsequent financial year, is the amount to which the sum of £5,000 would have been increased in the relevant financial year if it had been an official pension within the meaning of section 5(1) of PIA 1971 beginning, and first qualifying for increases under that Act, on 1st April 2010.”.

### **Average salary: supplemental**

5. In regulation 40(5)(c), omit “and (d)”.

### **Election to receive additional pension with phased retirement pension**

- 6.—(1) Regulation 73 is amended as follows.
- (2) For paragraph (7), substitute—
    - “(7) The factor is—
      - (a) in relation to an election made under paragraph 2 of Schedule 4 on or before 22nd June 2010,  $(RPI1/RPI2)/X$ , where—
        - (i) RPI1 is the retail prices index for the penultimate month before the month which includes the day before the entitlement day,
        - (ii) RPI2 is the retail prices index for the month which includes the start date, and
        - (iii) X is A/B, or 1 if greater, where—
          - (aa) A is the amount to which the AP credited amount is increased under PIA 1971 between the AP deemed date and the entitlement day, and

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- (a) Schedule 1 to the Teachers' Pensions Regulations 2010 provides that “PIA 1971” means the Pensions (Increase) Act 1971 (1971 c. 56). Orders providing for increases to official pensions are made by the Treasury under section 59 of the Social Security Pensions Act 1975 (1975 c. 60). Under section 59(7) of that Act, section 59 has effect as if it were contained in the Pensions (Increase) Act 1971.
  - (b) Schedule 1 to the Teachers' Pensions Regulations 2010 defines “comparable British scheme” as “a pension scheme for teachers in public employment in any part of the British Islands outside England and Wales”.

- (bb) B is the AP credited amount; or
- (b) in relation to an election made under paragraph 2 of Schedule 4 after 22nd June 2010,  $(CPI1/CPI2)/X$ , where—
  - (i) CPI1 is the consumer prices index for the penultimate month before the month which includes the day before the entitlement day,
  - (ii) CPI2 is the consumer prices index for the month which includes the start date, and
  - (iii) X is  $A/B$ , or 1 if greater, where—
    - (aa) A is the amount to which the AP credited amount is increased under PIA 1971 between the AP deemed date and the entitlement day, and
    - (bb) B is the AP credited amount.”.
- (3) In paragraph (9), before “AP election” insert—
  - ““AP credited amount” means the amount with which P is credited under Schedule 4 in respect of the AP election;
  - “AP deemed date” means the day on which the additional pension is deemed to begin for the purposes of PIA 1971 (see section 8(2) of that Act);”.

**Additional pension paid with retirement pension**

- 7.—(1) Regulation 75 is amended as follows.
- (2) For paragraph (10), substitute—
  - “(10) The factor is—
    - (a) in relation to an election made under paragraph 2 of Schedule 4 on or before 22nd June 2010,  $(RPI1/RPI2)/X$ , where—
      - (i) RPI1 is the retail prices index for the penultimate month before the month which includes the day before the entitlement day,
      - (ii) RPI2 is the retail prices index for the month which includes the start date, and
      - (iii) X is  $A/B$ , or 1 if greater, where—
        - (aa) A is the amount to which the AP credited amount is increased under PIA 1971 between the AP deemed date and the entitlement day, and
        - (bb) B is the AP credited amount; or
    - (b) in relation to an election made under paragraph 2 of Schedule 4 after 22nd June 2010,  $(CPI1/CPI2)/X$ , where—
      - (i) CPI1 is the consumer prices index for the penultimate month before the month which includes the day before the entitlement day,
      - (ii) CPI2 is the consumer prices index for the month which includes the start date, and
      - (iii) X is  $A/B$ , or 1 if greater, where—
        - (aa) A is the amount to which the AP credited amount is increased under PIA 1971 between the AP deemed date and the entitlement day, and
        - (bb) B is the AP credited amount.”.
  - (3) In paragraph (12), before “AP election” insert—
    - ““AP credited amount” means the amount with which P is credited under Schedule 4 in respect of the AP election;
    - “AP deemed date” means the day on which the additional pension is deemed to begin for the purposes of PIA 1971 (see section 8(2) of that Act);”.

### **Additional pensions for surviving adults**

8. In regulation 101, for paragraphs (5) to (11) substitute—

“(5) The factor is—

- (a) in relation to an election made under paragraph 2 of Schedule 4 on or before 22nd June 2010,  $(RPI1/RPI2)/X$ , where—
  - (i) RPI1 is the retail prices index for the penultimate month before the month which includes the day before the day mentioned in paragraph (2),
  - (ii) RPI2 is the retail prices index for the month which includes the start date, and
  - (iii) X is  $A/B$ , or 1 if greater, where—
    - (aa) A is the amount to which the AP credited amount is increased under PIA 1971 between the AP deemed date and the day mentioned in paragraph (2), and
    - (bb) B is the AP credited amount; or
- (b) in relation to an election made under paragraph 2 of Schedule 4 after 22nd June 2010,  $(CPI1/CPI2)/X$ , where—
  - (i) CPI1 is the consumer prices index for the penultimate month before the month which includes the day before the day mentioned in paragraph (2),
  - (ii) CPI2 is the consumer prices index for the month which includes the start date, and
  - (iii) X is  $A/B$ , or 1 if greater, where—
    - (aa) A is the amount to which the AP credited amount is increased under PIA 1971 between the AP deemed date and the day mentioned in paragraph (2), and
    - (bb) B is the AP credited amount.

(6) In this regulation—

“AP beneficiary” has the same meaning as in Schedule 4 (contributions for additional pensions);

“AP credited amount” means the amount with which D is credited under Schedule 4 in respect of the AP election;

“AP deemed date” means the day on which the additional pension is deemed to begin for the purposes of PIA 1971 (see section 8(2) of that Act);

“AP election” means an election accepted by the Secretary of State under Schedule 4 (contributions for additional pensions) which is a dependant’s election as defined in paragraph 1 of that Schedule; and

“start date” has the same meaning as in Schedule 4.”.

### **Interest on late payment of benefits**

9. In regulation 112(2), for “(9) and (10)” substitute “(8) and (9)”.

### **Meaning of “standard rate” of interest**

10.—(1) Regulation 129 is amended as follows.

(2) In paragraph (2), after “During any financial year” insert “which ends on or before 31st March 2011”.

(3) After paragraph (2), insert—

“(2A) From 1st April 2011, the rate of interest is the Superannuation Contributions Adjusted for Past Experience discount rate set by the Treasury(a).”.

### Glossary of expressions

11. In Schedule 1, insert in the appropriate places—

“additional paternity leave	the meaning in regulation 2(1) of the Additional Paternity Leave Regulations 2010(b)”;
“additional statutory paternity pay	the meaning in regulation 2(1) of the Additional Statutory Paternity Pay (General) Regulations 2010(c)”;
“consumer prices index	the index of consumer prices published by the Office for National Statistics.”.

### Maximum amount of additional pension

12.—(1) Paragraph 3 of Schedule 4 (contributions for additional pensions) is amended as follows.

(2) For sub-paragraphs (4) and (5), substitute—

“(4) But if no maximum amount has been determined for that financial year under sub-paragraph (3), the maximum amount for that financial year is the maximum amount for the financial year before that financial year (“the previous financial year”) increased by the amount by which it would have been increased if it had been an official pension within the meaning of section 5(1) of PIA 1971 beginning, and first qualifying for increases under that Act, on the first day of the previous financial year.”.

(3) For sub-paragraph (8), substitute—

“(8) The factor is  $CPI1/CPI2$ , where—

- (a)  $CPI1$  is the consumer prices index for February in the financial year before the year in which notice of the new election is given to the Secretary of State, and
- (b)  $CPI2$  is the consumer prices index for February in the financial year before the year which includes the start date for the previous election.”.

### Outward transfers

13.—(1) Part 1 of Schedule 6 (transfer values) is amended as follows.

(2) In paragraph 2, for “10” substitute “10A”.

(3) After paragraph 10, insert—

“10A. The Secretary of State may, on the advice of the scheme actuary, adjust a transfer value calculated in accordance with this Part.”.

### Interpretation

14. In paragraph 1 of Part 1 of Schedule 13 (savings and transitional provisions)—

- (a) before “these” omit “the”, and
- (b) omit the second full stop.

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(a) The rate will be published by the Secretary of State on the website of the administrator for the Teachers’ Pension Scheme (England and Wales): [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk).

(b) S.I. 2010/1055.

(c) S.I. 2010/1056.

## EXPLANATORY NOTE

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

These Regulations amend the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994 and the Teachers' Pensions Regulations 2010.

Schedule 1 amends the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994.

The amendments in paragraphs 1 and 3 of that Schedule provide an option, additional to those presently available, to person making elections regarding annuities to be purchased. The additional option is for the annuity to increase in accordance with a prices index other than the retail prices index (for example, the consumer prices index).

The effect of the amendment in paragraph 2(1) of that Schedule is that individuals who have already become entitled to retirement benefits may request the payment of a transfer value to another registered pension scheme of funds arising from the investment of additional voluntary contributions, in addition to others who may already do so. The amendment in paragraph 2(2) of that Schedule provides that such a transfer value is not payable where the individual has made an election for the purchase of an annuity and, if relevant, payment of a lump sum.

Schedule 2 amends the Teachers' Pensions Regulations 2010.

Paragraph 1 of that Schedule makes provision in relation to additional paternity leave and additional statutory paternity pay, giving the same recognition to such rights under the Teachers' Pensions Regulations 2010 as is given to paternity leave and statutory paternity pay.

Paragraphs 2, 4(3), 6, 7, 8, and 12 of that Schedule effect a change in the reference index for the uprating of various figures from the retail prices index, with savings where relevant. The amendments either refer to the consumer prices index directly or apply uprating under the Pensions (Increase) Act 1971; the Government announced on 22 June 2010 that such uprating would, from April 2011, be calculated by reference to the consumer prices index.

Paragraph 11 of that Schedule inserts into the Teachers' Pensions Regulations 2010 definitions relevant to these amendments.

Paragraph 10 of that Schedule amends the meaning of the "standard rate" of interest.

Paragraph 13 of that Schedule provides that the Secretary of State may, on the advice of the scheme actuary, adjust a transfer value.

Paragraphs 3, 4(2), 5, 9 and 14 of that Schedule correct minor typographical errors.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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£5.75