

2014 No. 424

EDUCATION, ENGLAND AND WALES

The Teachers' Pensions (Amendment) Regulations 2014

Made - - - - 25th February 2014

Laid before Parliament 4th March 2014

Coming into force - - 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. In regulation 7 (employment not pensionable: general) substitute—

(1) 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 sub-paragraph (c) of paragraph (2) of that regulation;
- (b) the person enters other employment which is pensionable employment;
- (c) the person's employer makes arrangements under section 3(2) (automatic enrolment) or section 5(2) (automatic re-enrolment) of PA 2008 in respect of that employment; or

(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; relevant amending instruments are S.I. 2012/673 and 2013/275.

- (d) the person’s employer is an accepted employer and makes arrangements under a Participation Agreement in respect of that employment.”.
- (2) 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 sub-paragraph (d) of paragraph (2) of that regulation;
 - (b) the person enters pensionable employment;
 - (c) the person’s employer makes arrangements under section 3(2) (automatic enrolment) or section 5(2) (automatic re-enrolment) of PA 2008 in respect of that employment; or
 - (d) the person’s employer is an accepted employer and makes arrangements under a Participation Agreement in respect of that employment.”.
4. In regulation 9 (election for employment not to be pensionable)—
- (a) in paragraph (4) substitute “earlier” with “earliest”.
 - (b) after sub-paragraph (b) of paragraph (4) insert—
 - “; and
 - (c) a subsequent fair deal transfer date in relation to service in the employment.”.
5. After regulation 14 (accepted function providers) insert—

“Meaning of “accepted member”

- 14A.**—(1) A person (P) is an accepted member if the conditions in paragraphs (2) to (4) are met.
- (2) Immediately before the fair deal transfer date P was employed—
 - (a) under a contract of employment and subject to existing Fair Deal arrangements;
 - (b) by a contracting scheme employer to undertake pensionable employment; or
 - (c) by a contracting scheme employer to undertake employment that is not pensionable employment in accordance with paragraph (6) or paragraph (8) of regulation 7.
 - (3) Immediately before and on the fair deal transfer date P is employed to undertake the same transferred service.
 - (4) After the fair deal transfer date P is employed to undertake transferred services.
 - (5) P ceases to be an accepted member from the date that P ceases to satisfy paragraph (1).

Meaning of “contracting scheme employer”

- 14B.** A contracting scheme employer is—
- (a) an employer mentioned in sub-paragraph (c) of paragraph 1 of Schedule 2 (governing body of a school maintained by a local authority);
 - (b) an employer mentioned in paragraph 2 of Schedule 2 (Academy); or
 - (c) an employer mentioned in paragraph 5 of Schedule 2 (special school not maintained by a local authority).

Meaning of “fair deal transfer date”

14C. “Fair deal transfer date” means the date on which transferred services are transferred between a contracting scheme employer and an accepted employer.

Meaning of “transferred services”

14D. “Transferred services” means services specified in the description of employment in the Participation Agreement.

Meaning of “Participation Agreement”

14E. “Participation Agreement” means a contractual agreement, relating to participation in the Scheme in accordance with the Fair Deal arrangements, between the Secretary of State, a contracting scheme employer and an accepted employer.

Meaning of “accepted employer”

14F. An accepted employer in respect of transferred services is an employer other than an employer mentioned in section 1 of the Local Government Act 1999(a) who—

- (a) is a party to a contract for services with a contracting scheme employer under which at least one employee, on and after the fair deal transfer date, is an accepted member;
- (b) is a party to a Participation Agreement; and
- (c) no written notice of cessation as an accepted employer under regulation 14H(1) has effect in relation to that employer.

Obligations of accepted employer

14G.—(1) An accepted employer—

- (a) must provide the Secretary of State with a guarantee if requested by the Secretary of State;
- (b) must give written notice to the Secretary of State immediately if any of the events in sub-paragraphs (c) to (g) of regulation 14H(2) occurs.

(2) In this regulation and regulation 14H “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 accepted employer.

Termination and resumption of accepted employer status

14H.—(1) An employer (E) ceases to be an accepted employer on the date specified in a written notice given by the Secretary of State under this paragraph.

(2) A notice under paragraph (1) 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 sub-paragraph (a) of regulation 14G 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 E off has been made under Part 31 of CA 2006.

(3) The Secretary of State may by further written notice to E determine that E resumes accepted employer status with effect from a future date stated in the notice.”.

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>
Academy	accepted employer	construe in accordance with section 579 of EA 1996.	see regulation 14F.
COBISEC	contracting scheme employer	the Council of British Independent Schools in the European Communities.	see regulation 14B.
excluded employer	existing Fair Deal arrangements	see regulation 7(12) (employment not pensionable: general)	the arrangements as provided in the documents by HM Treasury “Staff Transfers from Central Government: A Fair Deal for Staff Pensions” in June 1999 and the further guidance note “Fair Deal for Staff Pensions: Procurement of Bulk Transfer Agreements and Related Issues” in June 2004.
	Fair Deal arrangements		the arrangements as provided in the document by HM Treasury “Staff Transfers from Central Government: A Fair Deal for Staff Pensions” in October 2013.
part-time	fair deal transfer date Participation Agreement	employment is “part-time” if the contract requires the employee to work for less than the whole of the	see regulation 14C. see regulation 14E.

transfer day	transferred services	working week. (in relation to a pension sharing order) the day on which the pension sharing order takes effect.	see regulation 14D.
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7. After paragraph 14, of Part 1 of Schedule 2, insert—

“14A. An accepted member employed by an accepted 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%”.

25th February 2014

David Laws
Minister of State
Department for Education

We consent

25th February 2014

Sam Gyimah
David Evennett
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, amend the Teachers' Pensions Regulations 2010.

Regulations 3 to 7 give effect to the new Fair Deal, found in "Fair Deal for staff pensions: staff transfer from central government" issued by HMT in October 2013 (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/246933/PU1571_Fair_Deal_for_staf_pensions.pdf). The regulations extend access to the teachers' pension scheme for teachers, on the same terms as other members, who have moved from the public sector to an independent contractor by way of a compulsory transfer.

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

Regulations 5 and 6 define the concepts of "accepted member", "existing Fair Deal arrangement" (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/81339/staff_transfers_145.pdf), "contracting scheme employer", "fair deal transfer date", "transferred services", "accepted employer" and "Participation Agreement". The obligations of an accepted employer and the circumstances that may result in a change in accepted employer status are also provided for.

Regulation 7 extends pensionable employment to those teachers who have been transferred to the private sector.

Regulation 8 provides 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 or civil society organisations. The instrument has a minimal impact on the public sector.

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