

---

## STATUTORY INSTRUMENTS

---

# 2010 No. 990

## The Teachers' Pensions Regulations 2010

### PART 11

#### General

#### Payment of benefits on application to Secretary of State

**107.**—(1) Benefits under these Regulations are payable by the Secretary of State.

(2) Despite any provision of these Regulations according to which a benefit becomes payable at a certain time, no benefit is to be paid unless paragraphs (3) to (5) have been complied with.

(3) A written application for payment must be made to the Secretary of State.

(4) The applicant must provide the Secretary of State with such relevant information in the applicant's possession or which the applicant can reasonably be expected to obtain as the Secretary of State may specify in writing.

(5) An application for ill-health retirement benefits, or for a short-service serious ill-health grant, must be accompanied by all the medical evidence necessary for the Secretary of State to determine that the applicant is entitled to the benefit or benefits including, where applicable, evidence that the person's ability to carry out work is impaired by more than 90% and is likely permanently to be so.

(6) Where a person ceases to be in further employment (“the earlier further employment”) and subsequently re-enters further employment (“the subsequent further employment”) without making an application under this regulation for retirement benefits in respect of the earlier further employment, no application may be made under this regulation for retirement benefits solely in respect of the earlier further employment during the subsequent further employment.

#### Lump sums: declaration

**108.**—(1) This regulation applies where the Secretary of State is proposing to pay a lump sum to a person (P) under—

- (a) regulation 58 (phased retirement benefits);
- (b) regulation 60 (retirement benefits);
- (c) regulation 65 (total incapacity benefits)
- (d) regulation 80 (admitted service benefits);
- (e) regulation 105 (pension credit retirement benefits);
- (f) regulation 116 (election to receive lump sum in place of part of pension);
- (g) regulation 118 (commutation: serious ill health);
- (h) regulation 119 (commutation: small pensions).

(2) P must, by a date determined by the Secretary of State, provide a declaration in a form specified by the Secretary of State and signed by P that, on payment of the lump sum, paragraph 3A of Schedule 29 to FA 2004<sup>M1</sup> would not apply.

- (3) If no such declaration is provided by the date determined by the Secretary of State—
- (a) in the case of a lump sum under regulation 58 (phased retirement benefits) the Secretary of State is to treat P's election under regulation 57 (election to receive phased retirement benefits) as never having been made;
  - (b) in the case of a lump sum under regulation 60 (retirement benefits) regulation 65 (total incapacity lump sum) regulation 80 (admitted service benefits) or regulation 105 (pension credit retirement benefits)—
    - (i) the Secretary of State may determine that the lump sum is not payable to P, and
    - (ii) if the Secretary of State so determines, the Secretary of State must, in place of the lump sum, increase the annual rate of the pension paid under that regulation by an amount representing the value of the lump sum;
  - (c) in the case of a lump sum under regulation 116 (election to receive lump sum in place of part of pension), regulation 118 (commutation: serious ill health) or regulation 119 (commutation: small pensions), the Secretary of State is to treat P's application under that regulation as never having been made.
- (4) The amount representing the value of the lump sum referred to in paragraph (3)(b) is to be determined by the Secretary of State after taking advice from the scheme actuary.

#### Marginal Citations

**M1** [Paragraph 3A](#) of Schedule 29 was inserted by section 159 of the [Finance Act 2006 \(c.25\)](#).

#### Monthly payments

- 109.**—(1) This regulation applies to the payment of a pension except where regulation 110 (quarterly payments) applies.
- (2) An initial payment is to be made on the initial payment date.
  - (3) The amount of the initial payment is  $DI/DM \times AR/12$ , where—
    - DI is the number of days in the period beginning on the payable date and ending on the initial payment date and is 1 where the payable date falls on the initial payment date, and
    - DM is the number of days in the period beginning on the day which falls 1 month before the day after the initial payment date and ending on the initial payment date.
  - (4) Subsequent payments of  $AR/12$  are to be made on the payment date in subsequent months.
  - (5) Where the cessation date does not fall on the payment date, a final payment is to be made on, or as soon as possible after, the cessation date.
  - (6) The amount of the final payment is  $DF/DM \times AR/12$ , where—
    - DF is the number of days in the period beginning on the day immediately following the last payment date before the cessation date and ending on the cessation date, and
    - DM is the number of days in the period beginning on the day immediately following the last payment date before the cessation date and ending on what would have been the next payment date if the pension had not ceased to be payable.
  - (7) In the case of a pension under Part 9 (family benefits), the payment date is the 28th day of the month.
  - (8) In the case of any other pension, the payment date is the day before the day of the month on which the person to whom the pension is payable was born, and—
    - (a) where the person was born on the 1st day, it is the last day of the month;

- (b) where the person was born on the 30th day, for any month in which there is no 29th day it is the 28th day of the month;
  - (c) where the person was born on the 31st day, for any month in which there is no 30th day it is the last day of the month.
- (9) In this regulation—
- AR is the annual rate of the pension;
  - “cessation date” means the last day on which the pension is payable;
  - “initial payment date” means the first payment date which follows the payable date or, if the payable date falls on the payment date, the payable date;
  - “payable date” means the date on which the pension becomes payable;
  - “pension” includes an annuity.

### Quarterly payments

**110.**—(1) This regulation applies to the payment of a pension where a person's application under regulation 107 (payment of benefits on application to Secretary of State) includes a request that the pension be paid quarterly.

- (2) An initial payment is to be made on the initial payment date.
- (3) The amount of the initial payment is  $DI/DQ \times AR/4$ , where—
  - DI is the number of days in the period beginning on the payable date and ending on the initial payment date, and
  - DQ is the number of days in the period beginning on the day which falls 3 months before the day after the initial payment date and ending on the initial payment date.
- (4) Subsequent payments of  $AR/4$  are to be made on the payment date in every third month after the month in which the initial payment date falls.
- (5) Where the cessation date does not fall on a day on which a payment under paragraph (4) is to be made, a final payment is to be made on, or as soon as possible after, the cessation date.
- (6) The amount of the final payment is  $DF/DQ \times AR/4$ , where—
  - DF is the number of days in the period beginning on the day immediately following the last day on which a payment under paragraph (4) was to be made and ending on the cessation date, and
  - DQ is the number of days in the period beginning on the day immediately following the last day on which a payment under paragraph (4) was to be made and ending on what would have been the next such day if the pension had not ceased to be payable.
- (7) In the case of a pension under Part 9 (family benefits), the payment date is the 28th day of the month.
- (8) In the case of any other pension, the payment date is the day before the day of the month on which the person to whom the pension is payable was born, and—
  - (a) where the person was born on the 1st day, it is the last day of the month;
  - (b) where the person was born on the 30th day, for any month in which there is no 29th day it is the 28th day of the month;
  - (c) where the person was born on the 31st day, for any month in which there is no 30th day it is the last day of the month.

- (9) In this regulation—
- AR is the annual rate of the pension;
  - “cessation date” means the last day on which the pension is payable;

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Teachers' Pensions Regulations 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“initial payment date” means the third payment date which follows the payable date or, if the payable date falls on the payment date, the second payment date which follows the payable date;

“payable date” means the date on which the pension becomes payable;

“pension” includes an annuity.

### Apportionment Act 1870 not to apply

**111.** The Apportionment Act 1870 <sup>M2</sup> being inconsistent with regulations 109 (monthly payments) and 110 (quarterly payments) does not apply to benefits under these Regulations.

#### Marginal Citations

M2 1870 c.35

### Interest on late payment of benefits

**112.—**(1) This regulation applies to a benefit except—

- (a) a phased retirement pension or a phased retirement lump sum, or
- (b) a total incapacity pension payable between the date on which the person to whom it is paid first engages in any other form of paid or unpaid work as mentioned in paragraph (3)(c)(i) of regulation 67 (cessation of total incapacity pension) and the date on which the Secretary of State determines as mentioned in paragraph (3)(c)(ii) of that regulation.

(2) Except as provided in paragraphs (9) and (10), where a benefit to which this regulation applies is not paid within 1 month of the due date, the Secretary of State must pay interest on the amount unpaid at the Bank of England base rate compounded with three-monthly rests from the due date to the date of payment.

(3) Where the benefit is a death grant, the due date is the day after the date on which the Secretary of State became satisfied that payment may be made.

(4) Where the benefit is a lump sum or a grant other than a death grant, the due date is the day on which the benefit is payable.

(5) Where the benefit is a pension or annuity, the due date is—

- (a) in the case of a payment under regulation 109(2) or 110(2), the initial payment date (as defined in those regulations);
- (b) in the case of a payment under regulation 109(5) or 110(5), the cessation date (as defined in those regulations);
- (c) in any other case, the date on which payment is to be made under regulation 109(4) or 110(4).

(6) In determining the due date in accordance with paragraphs (4) and (5), no account is to be taken of the requirement to make an application for the benefit under regulation 107 (except the requirement contained in regulation 60(3)(c) or in paragraph 10(1)(e) of Schedule 7).

(7) In this regulation “Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets, or
- (b) where an order under section 19 of the Bank of England Act 1998 <sup>M3</sup> is in force, any equivalent rate determined by the Treasury under that section.

(8) Where a payment to the Secretary of State is received after the benefit to which it relates becomes payable, the Secretary of State may determine that this regulation does not apply to the benefit until the payment is received.

(9) Where a benefit is payable between the date specified under regulation 115(1) (evidence of continuing entitlement etc. to benefit) and the date on which the evidence referred to in that regulation is received by the Secretary of State in circumstances where—

- (a) the Secretary of State required evidence to be provided under that regulation,
- (b) the necessary evidence was not provided by the date specified but that evidence was provided later, and
- (c) it does not appear to the Secretary of State that the delay in the provision of the evidence was due to circumstances outside the control of the person to whom the benefit is payable

this regulation does not apply unless the Secretary of State determines in a particular case, either in respect of the whole period or any part of the period.

#### Marginal Citations

M3 1998 c.11

#### Payment of benefits in certain cases

**113.**—(1) Where a person (P) to whom a benefit is payable has not reached the age of 18 or is incapable by reason of infirmity of mind or body of managing P's affairs, the Secretary of State may—

- (a) pay the benefit to any person having the care of P, or
- (b) apply it as the Secretary of State thinks fit for the benefit of P or P's dependants.

(2) Where a benefit is payable to a widow and there is more than one widow, the benefit must be paid to the widows in equal shares.

(3) Where on the death of a person (D) the total of any sums due to D and any sums payable to D's personal representatives under these Regulations does not exceed the amount specified in any order made under section 6 of the Administration of Estates (Small Payments) Act 1965<sup>M4</sup> which applies to D's death, the Secretary of State may, without requiring the production of probate or other proof of title, pay the amount due—

- (a) to D's personal representatives, or
- (b) to the person, or to or among any one or more of any persons, appearing to the Secretary of State to be beneficially entitled to D's estate.

#### Marginal Citations

M4 1965 c.32; the amount currently specified, in S.I. 1984/539 is £5000.

#### Cessation, etc. of benefits where no entitlement

**114.**—(1) This regulation applies where after paying a benefit the Secretary of State determines that there was no entitlement to the benefit or there is no longer an entitlement to the benefit.

- (2) The Secretary of State may—
- (a) cease to pay the benefit;

- (b) withhold the whole or any part of the benefit;
- (c) in the case of a payment made when there was no entitlement to the benefit, recover any such payment.

#### **Evidence of continuing entitlement, etc. to benefit**

**115.**—(1) Where a benefit is being paid, the Secretary of State may at any time require that evidence be provided, by such date as the Secretary of State may specify, to establish—

- (a) the identity of the person to whom the benefit is being paid;
- (b) continuing entitlement to the benefit.

(2) If no such evidence is provided by the date specified, the Secretary of State may withhold the whole or any part of the benefit.

(3) In a case where a benefit ceases to be payable if a person ceases to be incapacitated or if a person's ability to carry out any work ceases to be impaired by more than 90%, the power in paragraph (1)(b) may be exercised so as to require the person to provide evidence that there has been no such cessation.

#### **Election to receive lump sum in place of part of pension**

**116.**—(1) A person who was in pensionable employment on or after 1st January 2007 may elect to receive a lump sum in place of—

- (a) part of any phased retirement pension, or
- (b) part of one or more of—
  - (i) any retirement pension,
  - (ii) any additional pension, or
  - (iii) any total incapacity pension

by giving written notice to the Secretary of State.

(2) But paragraph (1) only applies where the person complies with regulation 107 (payment of benefits on application to Secretary of State) relating to the pension before the person reaches the age of 75.

(3) For the purpose of paragraph (1), a person is to be treated as being in pensionable employment on or after 1st January 2007 if the person has paid contributions under regulation C9 of TPR 1997 or regulation 19 (election to pay contributions by a person serving in a reserve force) for a period which ends on or after that date.

(4) A pension credit member (PCM) whose credit is derived from rights which include rights attributable to the pension debit member's pensionable employment on or after 1st January 2007 may, if the condition in paragraph (5) is satisfied, elect to receive a lump sum in place of part of PCM's pension credit retirement pension by giving notice in writing to the Secretary of State.

(5) The conditions are—

- (a) that no payment of any pension to the corresponding pension debit member had been initiated before the transfer day unless that pension relates to pensionable employment which was not taken into account in determining the rights from which PCM's credit is derived, and
- (b) PCM complies with regulation 107 (payment of benefits on application to Secretary of State) relating to the pension credit member's pension before PCM reaches 75.

(6) For the purpose of paragraph (4), a pension credit member's credit is to be treated as attributable to pensionable employment on or after 1st January 2007 if it is attributable to

contributions paid under regulation C9 of TPR 1997 or regulation 19 (election to pay contributions by a person serving in a reserve force) for a period which ends on or after that date.

- (7) The notice under paragraph (1) or (4) must—
- (a) be given at the same time as the person makes an application under regulation 107 for the pension, and
  - (b) specify the amount of the lump sum which the person wishes to receive and, where appropriate, the pension in place of which the lump sum is to be received.
- (8) The amount of the lump sum—
- (a) must be a multiple of £12, and
  - (b) must not, where an election is made under paragraph (1) to take a lump sum in place of part of a retirement pension by a person with a guaranteed minimum, be such that the total of—
    - (i) the annual rate of the person's retirement pension when reduced in accordance with paragraph (10), and
    - (ii) any phased retirement pension paid to the person with that pension, would be less than the guaranteed minimum.
- (9) The amount of the lump sum, or where an election relates to more than one pension, the aggregate of the lump sums, must not exceed the person's permitted maximum.
- (10) Where an election is made under this regulation, the annual rate of the pension in respect of which the election is made is reduced by £1 for every £12 of lump sum received.
- (11) Regulation 117 (person to be treated as electing to receive lump sum in place of pension) makes provision for a person to be treated as electing to receive a lump sum in place of a pension in certain circumstances.

### **Person to be treated as electing to receive lump sum in place of pension**

- 117.**—(1) This regulation applies where—
- (a) a person (P) makes or is treated as making an election under regulation 116 (election to receive lump sum in place of pension) (“the original election”) to receive a lump sum in place of part of a phased retirement pension,
  - (b) the pension referred to in sub-paragraph (a) ceases to be payable under regulation 59 (cessation of phased retirement pension), and
  - (c) a phased retirement or a retirement pension becomes payable to P.
- (2) This regulation also applies where—
- (a) a person (P) makes or is treated as making an election under regulation 117 (“the original election”) to receive a lump sum in place of part of—
    - (i) an ill-health pension, or
    - (ii) a total incapacity pension,
  - (b) the pension referred to in sub-paragraph (a) ceased to be payable under regulation 68 (cessation and reinstatement of ill-health pension (application received before 6th January 2007)) or regulation 69 (cessation and reinstatement of ill-health pension (application received on or after 6th January 2007)), and
  - (c) a phased retirement or a retirement pension becomes payable to P.
- (3) P is to be treated as making an election under regulation 116 (“the new election”) to receive a lump sum of the appropriate amount in place of part of the pension referred to in paragraph (1)(c) or (2)(c) and any total incapacity pension paid with that pension.

(4) The annual rate of the new pension is to be reduced in accordance with regulation 116.

(5) Despite paragraph (3), the lump sum to be paid to P pursuant to the new election is the appropriate amount less the amount of the lump sum (or aggregate of the lump sums) paid to P pursuant to the original election.

(6) The appropriate amount is  $(NP - (OP2/OP1 \times NP)) \times 12$ , rounded to the nearest £12, where—  
 NP is the annual rate of the new pension taking no account of the new election,  
 OP1 is the annual rate of the original pension taking no account of the original election, and  
 OP2 is the annual rate of the original pension after taking account of the original election.

(7) In paragraphs (4) and (6) “the new pension” means the pension referred to in paragraph (1) (c) or (2)(c), or the aggregate of either of those pensions and any total incapacity benefit paid with that pension.

(8) In paragraph (6) “the original pension” means the pension referred to in paragraph (1)(a) or the pension, or aggregate of the pensions, referred to in paragraph (2)(a).

#### **Commutation: serious ill health**

**118.**—(1) Where a person (P) who is under 75 has a life expectancy of less than a year at the time when—

- (a) a retirement pension which is paid because Case A applies to P's reckonable service, or
- (b) an ill-health pension

becomes payable to P, the Secretary of State may, on the application of P, commute the pension and any phased retirement pension, additional pension or total incapacity pension paid with the pension by paying a lump sum specified in paragraph (2).

(2) The lump sum is—

- (a) a sum equal to  $5 \times$  the annual rate of the retirement pension and any total incapacity pension, and
- (b) a sum equal to  $(A-B) \times$  the annual rate of any phased retirement pension where—  
 A is 5, and

B is the period (in years and fractions of a year) from the date on which the phased retirement pension was first paid until the date of the application (and accordingly if this period is 5 years or more no lump sum is payable in respect of a phased retirement pension).

(3) Where a pension credit member (P) who is under 75 has a life expectancy of less than a year at any time before or at the time when a pension credit member's pension becomes payable to P, the Secretary of State may, on the application of P, commute the pension by paying a lump sum equal to 5 times the annual rate of the pension.

(4) An application must

- (a) be in writing,
- (b) be made at the same time as the person makes an application under regulation 107 (payment of benefits on application to Secretary of State),
- (c) be accompanied by all the medical evidence necessary for the Secretary of State to determine that P is entitled to the commutation.

(5) Where P's application is in respect of a pension in respect of which P is eligible to apply under regulation 116 (election to receive lump sum in place of part of pension)—

- (a) P is to be treated as applying under that regulation to receive the largest permissible lump sum in place of part of the pension, and



- (b) the reference in this regulation to the annual rate of the pension is to the annual rate reduced in accordance with regulation 116.

### **Commutation: small pensions**

**119.**—(1) Where—

- (a) a retirement pension is payable to a person (P), and
- (b) the conditions set out in paragraph (4) are satisfied

the Secretary of State may, on the application of P, commute that pension and any phased retirement pension additional pension or total incapacity pension paid with that pension by paying a lump sum to P.

(2) But no payment may be made under paragraph (1) if the pension includes a guaranteed minimum unless P has reached GMP age.

(3) Where a lump sum is paid under paragraph (1) neither a death grant under Part 8 (death grants) nor a pension under Part 9 (family benefits) is payable on P's death,

(4) The conditions in this paragraph are that—

- (a) the lump sum is a trivial commutation lump sum as defined in paragraph 7 of Schedule 29 to FA 2004 or falls within regulation 11 or 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009<sup>M5</sup>,
- (b) the application is made at the same time as P makes an application under regulation 107,
- (c) no transfer value has been accepted from the scheme managers of a personal pension scheme under regulation 35,
- (d) during the period of 5 years ending with the application no other transfer value has been accepted, and
- (e) during the period of 3 years ending with the application no cash equivalent or transfer value has been paid in respect of P.

(5) Where—

- (a) a pension credit retirement pension becomes payable to a pension credit member, and
- (b) the conditions set out in paragraph (6) are satisfied

the Secretary of State may, on the application of the pension credit member commute the pension by paying a lump sum to the pension credit member.

(6) The conditions in this paragraph are that—

- (a) the lump sum is a trivial commutation lump sum as defined in paragraph 7 of Schedule 29 to FA 2004 or falls within regulation 11 or 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009, and
- (b) the application is made at the same time as the pension credit member makes an application under regulation 107,

(7) Where—

- (a) a pension is payable to a person (“the family member”) under Part 9 (family benefits), and
- (b) the conditions set out in paragraph (8) are satisfied

the Secretary of State, may on the application of the family member commute that pension by paying a lump sum to the family member.

(8) The conditions are that—

- (a) D had not reached the age of 75 at the date of D's death,

- (b) D would not have reached the age of 75 when the lump sum is paid,
- (c) the application is made at the same time as the family member makes an application under regulation 107,
- (d) the lump sum does not exceed 1% of the standard lifetime allowance on the day that the lump sum would otherwise be paid,

and in this paragraph D is the person who had been in pensionable employment and on whose death the family benefits became payable.

(9) The lump sums referred to in paragraphs (1), (5) and (7) are to be determined by the Secretary of State after taking advice from the scheme actuary.

#### Marginal Citations

M5 S.I. 2009/1171

### Guaranteed minimum pensions

**120.**—(1) Where a person who has a guaranteed minimum reaches GMP age, the weekly rate of any relevant pension must not be less than the person's guaranteed minimum under sections 14 to 16 of PSA 1993.

(2) Where no relevant pension becomes payable to a person who has a guaranteed minimum (P) within 5 years after P reaches GMP age, a guaranteed minimum pension, the weekly rate of which is P's guaranteed minimum under sections 14 to 16 of PSA 1993, is payable to P.

(3) Paragraph (2) does not apply—

- (a) while P consents to the application of that paragraph being postponed,
- (b) from the date on which a relevant pension becomes payable, or
- (c) where paragraph (4) applies.

(4) This paragraph applies where—

- (a) a person (P) who has a guaranteed minimum exercises P's right to a cash equivalent,
- (b) the pension scheme into which P's rights to benefits under these Regulations are transferred does not accept a transfer of P's accrued rights to guaranteed minimum pensions,
- (c) P's accrued rights to a guaranteed minimum pension are not transferred elsewhere.

(5) Where paragraph (4) applies, a guaranteed minimum pension, the weekly rate of which is the person's guaranteed minimum under sections 14 to 16 of PSA 1993, is payable to P for life from the date on which P reaches GMP age.

(6) Where a person who has a guaranteed minimum dies leaving a widow, widower or civil partner the pension payable to the widow, widower or civil partner under Part 9 (family benefits) must be paid for any period required by or under section 17 of PSA 1993 at a weekly rate which is no less than the widow's, widower's or civil partner's guaranteed minimum (as set out in that section).

(7) In this regulation—

“accrued rights to guaranteed minimum pensions” are to be construed in accordance with section 20 of PSA 1993;

“relevant pension” means a phased retirement pension or retirement pension which becomes payable in respect of contracted-out employment before 6th April 1997.

(8) In this regulation the question whether a person has a guaranteed minimum is to be determined in accordance with section 14 of PSA 1993.

- (9) This regulation overrides any inconsistent provision elsewhere in these Regulations.
- (10) But this regulation is subject to—
- (a) regulation 64 (abatement of retirement pension during further employment);
  - (b) regulation 118 (commutation: serious ill-health);
  - (c) regulation 119 (commutation: small pensions);
  - (d) regulation 121 (forfeiture of benefits).

### **Forfeiture of benefits**

- 121.**—(1) This regulation applies to a benefit payable to a person who is convicted of—
- (a) an offence of treason, or
  - (b) one offence or more under the Official Secrets Acts 1911 to 1989<sup>M6</sup> for which the person has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years

where the offence was committed before the benefit became payable.

(2) This regulation also applies to a benefit under Part 7 or Part 10 payable to a person convicted of an offence, committed before the benefit became payable, in connection with service as a public servant certified by the Secretary of State to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.

(3) This regulation also applies to a benefit payable on the death of a person (D) to any person convicted of the murder of D, the manslaughter of D or any other offence of which the unlawful killing of D is an element.

(4) The Secretary of State may defer or suspend payment of a benefit to which this regulation applies for so long, or reduce its amount or rate by so much and for so long, as the Secretary of State may determine.

(5) The power in paragraph (4) may not be exercised in relation to the guaranteed minimum pension of a person unless the person or, in the case of a widow's, widower's or surviving civil partner's guaranteed minimum pension, the person by reference to whose contracted-out employment the pension is payable, is convicted as mentioned in paragraph (1).

---

#### **Marginal Citations**

**M6** 1911 c.28, 1920 c.75, 1939 c.121, 1989 c.6.

### **Benefits not assignable G**

**122.**—(1) Where a benefit is payable to a person or a person has a right to a future benefit, the benefit or the right to the benefit cannot be assigned in favour of the person's widow, widower, surviving civil partner or dependant and an agreement to this effect is void.

(2) Section 91 of PA 1995 (inalienability of occupational pensions) prevents assignment in other circumstances.

### **Reduction of benefits: lifetime allowance charge**

- 123.**—(1) This regulation applies where—
- (a) the lifetime allowance charge arises because a benefit becomes payable to a person, and
  - (b) the person and the Secretary of State are jointly and severally liable to the charge.

---

**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Teachers' Pensions Regulations 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

(2) The Secretary of State must pay the charge.

(3) The amount of the benefit must be reduced to reflect the amount of the charge in such manner as the Secretary of State shall determine, after taking advice from the scheme actuary.

#### **General prohibition on unauthorised payments**

**124.** Nothing in these Regulations requires or authorises the making of any payment which, if made, would be an unauthorised payment for the purpose of Part 4 of FA 2004 (see section 160(5) of that Act) unless the Secretary of State determines otherwise (in the case of a particular payment).

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Teachers' Pensions Regulations 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- Regulations restricted by [S.I. 2023/871 reg. 30](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 2 Pt. 1 para. 2(aa) inserted by [S.I. 2012/979 Sch. para. 28\(2\)\(b\)](#)
- Sch. 2 para. 2(ab) inserted by [S.I. 2014/2651 reg. 22\(a\)](#)
- Sch. 2 para. 26 inserted by [S.I. 2014/2651 reg. 22\(b\)](#)
- Sch. 2 Pt. 1 para. 14A inserted by [S.I. 2014/424 reg. 7](#)
- Sch. 2 para. 22(m) inserted by [S.I. 2019/1134 reg. 14](#)
- Sch. 2 para. 3A inserted by [S.I. 2021/805 reg. 10\(b\)](#)
- Sch. 2 para. 2(ab) inserted by [S.I. 2014/2651, reg. 22\(a\)](#) (as substituted) by [S.I. 2021/805 reg. 2\(2\)](#)
- Sch. 2 para. 26 inserted by [S.I. 2014/2651, reg. 22\(b\)](#) (as substituted) by [S.I. 2021/805 reg. 2\(2\)](#)
- Sch. 2 Pt. 1 para. 6(a) substituted by [S.I. 2019/1027 reg. 33](#)
- Sch. 3 para. 2(2)-(7) and table substituted for Sch. 3 para. 2(2) by [S.I. 2014/2651 reg. 23\(a\)](#)
- Sch. 5 para. 5(aa) inserted by [S.I. 2019/1134 reg. 16\(1\)\(c\)\(i\)](#)
- Sch. 5 para. 7(1A) inserted by [S.I. 2019/1134 reg. 16\(1\)\(d\)\(ii\)](#)
- Sch. 5 para. 9(ba) inserted by [S.I. 2019/1134 reg. 16\(1\)\(e\)\(i\)](#)
- Sch. 6 Pt. 1 para. 10A inserted by [S.I. 2011/614 Sch. 2 para. 13\(3\)](#)
- Sch. 7 para. 4(2A) inserted by [S.I. 2017/1084 reg. 7\(b\)](#)
- Sch. 7 para. 12(3A) inserted by [S.I. 2017/1084 reg. 7\(c\)](#)
- Sch. 7 para. 6(1A) inserted by [S.I. 2019/1134 reg. 17\(b\)](#)
- Sch. 8 para. 1(2)(h)(ia)(ib) inserted by [S.I. 2019/1458 Sch. 3 para. 115\(3\)\(a\)\(iii\)](#)
- Sch. 8 para. 1(1)(e) substituted by [S.I. 2021/805 reg. 13\(2\)](#)
- Sch. 8 para. 1(1)(b)(ba) substituted for Sch. 8 para. 1(1)(b) by [S.I. 2019/1458 Sch. 3 para. 115\(3\)\(a\)\(ii\)](#)
- Sch. 13 para. 88A substituted for Sch. 13 para. 8 by [S.I. 2014/2651 reg. 29\(a\)](#)
- reg. 2A2B inserted by [S.I. 2014/560 Sch. 3 para. 17](#)
- reg. 2A omitted by [S.I. 2019/1134 reg. 6](#)
- reg. 2A(1) words substituted by [S.I. 2014/3061 Sch. 1 para. 11\(2\)](#)
- reg. 2B omitted by [S.I. 2019/1134 reg. 6](#)
- reg. 2C inserted by [S.I. 2014/3061 Sch. 1 para. 11\(2\)\(4\)](#)
- reg. 6(1A) inserted by [S.I. 2012/2270 reg. 3\(a\)](#)
- reg. 6(2A) inserted by [S.I. 2012/2270 reg. 3\(b\)](#)
- reg. 6(3A) inserted by [S.I. 2012/2270 reg. 3\(c\)](#)
- reg. 9(4)(c) and word inserted by [S.I. 2014/424 reg. 4\(b\)](#)
- reg. 13(7A) inserted by [S.I. 2021/805 reg. 6\(6\)](#)
- reg. 13A inserted by [S.I. 2021/805 reg. 7](#)
- reg. 14A-14H inserted by [S.I. 2014/424 reg. 5](#)
- reg. 14A(5) word substituted by [S.I. 2014/2651 reg. 5](#)
- reg. 14F(c) words omitted by [S.I. 2014/2651 reg. 6\(b\)](#)
- reg. 14F(c) words substituted by [S.I. 2014/2651 reg. 6\(a\)](#)
- reg. 17(3A) inserted by [S.I. 2014/2651 reg. 8\(b\)](#)
- reg. 17(12)(13) substituted for reg. 17(12) by [S.I. 2014/2651 reg. 8\(c\)](#)

- reg. 27(3) inserted by [S.I. 2021/805](#) reg. 8
- reg. 30(1)(d) and word inserted by [S.I. 2014/2651](#) reg. 9
- reg. 64-64D substituted for reg. 64 by [S.I. 2014/2651](#) reg. 15
- reg. 64B modified by [S.I. 2015/601](#) reg. 31(5)(a)
- reg. 83(3A) inserted by [S.I. 2017/1084](#) reg. 5
- reg. 85(3A) inserted by [S.I. 2017/1084](#) reg. 6
- reg. 87A inserted by [S.I. 2019/1134](#) reg. 8
- reg. 129(2A) inserted by [S.I. 2011/614](#) Sch. 2 para. 10(3)