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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 97**

**PUBLIC SERVICE PENSIONS**

**The Teachers' Pension Scheme  
(Scotland) Amendment Regulations 2015**

<i>Made</i>	- - - -	<i>2nd March 2015</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>3rd March 2015</i>
<i>Coming into force</i>	- -	<i>1st April 2015</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1(1) and (2)(d) of, and paragraph 4(b) of Schedule 2 to, the Public Service Pensions Act 2013<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 21(1) of that Act, the Scottish Ministers consulted the representatives of such persons as appeared to the Scottish Ministers likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

**Citation and commencement**

1. These Regulations may be cited as the Teachers' Pension Scheme (Scotland) Amendment Regulations 2015 and come into force on 1st April 2015.

**Amendment of the Teachers' Pension Scheme (Scotland) (No. 2) Regulations 2014**

2. The Teachers' Pension Scheme (Scotland) (No. 2) Regulations 2014<sup>(2)</sup> are amended in accordance with these Regulations.

**Regulation 3 (interpretation)**

3. In regulation 3—

- (a) omit the definition of “additional paternity leave”; and
- (b) after the definition of “sending scheme”, add—

““shared parental leave” means leave by virtue of section 75E or 75G of the Employment Rights Act 1996;”.

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(1) 2013 c.25.  
(2) S.S.I. 2014/292.

**Regulation 22 (service not pensionable unless member is entitled to pay)**

4. In paragraph (1)(b) of regulation 22, for “paternity leave or additional paternity leave” substitute “shared parental leave or paternity leave”.

**Regulation 32 (interpretation)**

5. In paragraph (b) of the definition of “notional pensionable earnings” in regulation 32, for “paternity leave or additional paternity leave” substitute “shared parental leave or paternity leave”.

**Regulation 33 (pensionable earnings)**

6. In paragraph (2)(c) of regulation 33, for “additional paternity leave, parental leave” substitute “parental leave, shared parental leave”.

**Regulation 37 (pensionable earnings for the purpose of accruing benefits)**

7. In paragraph (a) of regulation 37, for “paternity leave or additional paternity leave” substitute “shared parental leave or paternity leave”.

**Regulation 90 (entitlement to phased retirement pension)**

8. In paragraph (1)(a) of regulation 90, for “55” substitute “normal minimum pension age”.

**Regulation 98 (entitlement to premature retirement pension)**

9. In paragraph (1)(a) of regulation 98, for “55” substitute “normal minimum pension age”.

**Regulation 100 (meaning of “entitlement day” (early retirement pension))**

10. In paragraph (5)(a) of regulation 100, for “55” substitute “normal minimum pension age”.

**Regulation 101 (entitlement to early retirement pension)**

11. In paragraph (1)(a) of regulation 101, for “55” substitute “normal minimum pension age”.

**Regulation 140 (annual rate of surviving adult pension: short-term)**

12. In paragraph (2)(a) of regulation 140, for “additional paternity leave” substitute “shared parental leave”.

**Regulation 147 (annual rate of child pension: short-term)**

13. In paragraph (2)(a) of regulation 147, for “additional paternity leave” substitute “shared parental leave”.

**Regulation 151 (entitlement day for pension credit retirement pension)**

14. In paragraph (1)(b) of regulation 151, for “55” substitute “normal minimum pension age”.

**Regulation 178 (pensionable earnings for a pay period)**

15. In paragraph (4) of regulation 178, after “adoption leave” insert “, shared parental leave”.

### **Regulation 179 (contributions for standard earned pension)**

16. For regulation 179, substitute—

“**179.**—(1) For each eligible employment in respect of which an active member (P) is in pensionable service during a pay period, P must pay contributions for standard earned pension (“standard contributions”) on P’s pensionable earnings in that pay period at the rate determined under this regulation.

(2) The standard contributions rate for an eligible employment is the rate in Column 2 of the following table corresponding to the band which includes the annual salary rate for that employment in Column 1.

**Table**

<i>Column 1</i>	<i>Column 2</i>
<i>Annual salary rate for the eligible employment</i>	<i>Standard contributions rate</i>
Up to and including £25,999	7.2%
£26,000 to £34,999	8.7%
£35,000 to £41,499	9.7%
£41,500 to £54,999	10.4%
£55,000 to £74,999	11.5%
£75,000 and above	11.9%

(3) The annual salary rate bands in Column 1 are increased for each financial year, if there is a relevant increase in the consumer prices index for that financial year, by the appropriate percentage for the financial year, rounding up to the nearest £1.

(4) There is a relevant increase in the consumer prices index for a financial year if the consumer prices index for the month of September before that financial year is higher than that for the previous September.

(5) The appropriate percentage for the financial year is the same percentage as the percentage increase in the consumer prices index.

(6) In this regulation, “consumer prices index” means the all items consumer prices index published by the Statistics Board, a body corporate established by section 1 of the Statistics and Registration Service Act 2007(3).”.

### **Regulation 183 (entitlement to repayment of balance of contributions)**

17. In paragraph (3) of regulation 183, for “additional paternity leave, parental leave” substitute “parental leave, shared parental leave”.

### **Regulation 186 (employers’ contributions)**

18. For regulation 186, substitute—

“186. In respect of each pay period, the employer of a person (P) in pensionable service in that pay period is to pay contributions on P’s pensionable earnings in the pay period at the following percentage rate of those earnings—

- (a) 14.9% from 1st April 2015 to 31st August 2015 inclusive;
- (b) 17.2% from 1st September 2015;
- (c) at the rate determined in each successive valuation report under paragraph 1 of Schedule 4 with effect from a date to be notified to employers by the scheme manager.”.

**Regulation 190 (payment by employers to scheme manager)**

19. In paragraph (2) of regulation 190—

- (a) after sub-paragraph (a), insert “and”; and
- (b) omit sub-paragraph (c) and the word “and” immediately before it.

**Regulation 195 (application for a statement of entitlement)**

20. In regulation 195, omit—

- (a) “(P)” in paragraph (1); and
- (b) paragraph (2).

**Regulation 197 (payment of a transfer value)**

21. In paragraph (1) of regulation 197, for “may” substitute “must”.

**Regulation 199 (acceptance of a transfer value)**

22. In paragraph (1)(a) of regulation 199, for “75” substitute “normal pension age”.

**Regulation 203 (application for a club transfer statement of entitlement)**

23. In regulation 203, omit—

- (a) “(P)” in paragraph (1); and
- (b) paragraph (2).

**Regulation 205 (payment of a club transfer value)**

24. In paragraph (1) of regulation 205, for “may” substitute “must”.

**Regulation 209 (employment records)**

25. In paragraph (2) of regulation 209—

- (a) in sub-paragraph (b), after “earnings” insert “, including any money value of residential benefits in kind forming part of P’s pensionable earnings under regulation 36”; and
- (b) in sub-paragraph (f), for “additional paternity leave, parental leave” substitute “parental leave, shared parental leave”.

**New regulation 214A**

26. After regulation 214, insert—

**“Scheme valuation and employer cost cap**

**214A.** Schedule 4 has effect.”.

**Paragraph 3 of Schedule 2 (meaning of “overall amount of extra pension”)**

**27.** In paragraph 3(2) of Schedule 2, after “1971” insert “rounded to the nearest £100”.

**Paragraph 31 of Schedule 2 (eligible to make buy-out election)**

**28.** At the end of paragraph 31(1) of Schedule 2, insert—

“insofar as this relates to P’s—

- (a) standard earned pension; and
- (b) faster accrual earned pension (if any)”.

**Paragraph 1 of Schedule 3 (interpretation)**

**29.** In the definition of “transition date” in paragraph 1 of Schedule 3, in both paragraphs (a) and (b), for “an existing scheme” substitute “the existing scheme”.

**Paragraph 2 of Schedule 3 (meaning of “active member of existing scheme”)**

**30.** In paragraph 2(1) of Schedule 3—

- (a) omit “or”; and
- (b) at the end, insert—
  - “; or
  - (c) P is in receipt of an ill-health pension in respect of the existing scheme”.

**Paragraph 6 of Schedule 3 (meaning of “full protection member”)**

**31.** In paragraph 6 of Schedule 3—

- (a) in sub-paragraph (1), for “if—” substitute—
  - “if sub-paragraph (1A) or (1B) applies.
  - (1A) This sub-paragraph applies if—”; and
- (b) before sub-paragraph (2), insert—
  - “(1B) This sub-paragraph applies if—
  - (a) P was an active member of an existing public service scheme on the scheme closing date and on 31st March 2012;
  - (b) P enters eligible employment not more than 5 years after leaving pensionable service under the existing public service scheme;
  - (c) a pension in respect of all of P’s service in the existing public service scheme has not become payable on or after 1st April 2012; and
  - (d) unless P dies, P would reach normal pension age under the existing scheme and the existing public service scheme on or before 1st April 2022.”.

**Paragraph 9 of Schedule 3 (meaning of “tapered protection member”)**

**32.** In paragraph 9 of Schedule 3—

- (a) in sub-paragraph (1), for “if—”, substitute—

“if sub-paragraph (1) or (2) applies.

(1A) This sub-paragraph applies if—”; and

(b) before sub-paragraph (2), insert—

“(1B) This sub-paragraph applies if—

- (a) P was an active member of an existing public service scheme on the scheme closing date and on 31st March 2012;
- (b) P enters eligible employment not more than 5 years after leaving pensionable service under the existing public service scheme;
- (c) a pension in respect of all of P’s service in the existing public service scheme has not become payable on or after 1st April 2012; and
- (d) unless P dies, P would reach normal pension age under—
  - (i) the existing scheme between 2nd April 2022 and 30th September 2025 (inclusive); and
  - (ii) the existing public service scheme on or before 30th September 2025.”.

### **Paragraph 20 of Schedule 3 (application of existing scheme rules)**

**33.** For paragraph 20 of Schedule 3, substitute—

#### **“Application of the 2005 Regulations**

**20.**—(1) The 2005 Regulations apply in relation to the calculation of benefits payable in respect of pensionable service under the existing scheme, save that an application for payment of benefits must be made under regulation 159 of these Regulations and not under the 2005 Regulations.

(2) The 2005 Regulations apply in relation to the payment of additional pension with a retirement pension under the existing scheme, save that an application for payment of benefits must be made under regulation 159 of these Regulations and not under the 2005 Regulations.

(3) The 2005 Regulations apply in relation to an election made by a person (P) for contributions to be paid monthly under paragraph 3(a) of Schedule 2A to those Regulations<sup>(4)</sup> if the election is made before—

- (a) the date P ceases to be in pensionable service under the existing scheme, if P is a full protection member; or
- (b) the transition date.”.

### **Paragraph 21 of Schedule 3 (determination of final salary)**

**34.** In paragraph 21 of Schedule 3, for “For” substitute “Subject to paragraph 21A, for”.

### **New paragraph 21A of Schedule 3**

**35.** After paragraph 21 of Schedule 3, insert—

#### **“Winding down employment**

**21A.**—(1) Sub-paragraph (2) applies where—

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(4) Schedule 2A was inserted by [S.S.I. 2007/189](#).

- (a) a transition member (P) is in winding down employment under regulation J2(5) of the 2005 Regulations immediately before P's transition date; and
  - (b) at the time of completing pensionable service under this scheme, P would still have been regarded as being in winding down employment had P remained as an active member of the existing scheme.
- (2) For the purpose of calculating benefits payable under the existing scheme, P's final salary will be determined by reference to regulation E34(15) of the 2005 Regulations(6).".

**Paragraph 27 of Schedule 3 (application for payment of ill-health pension)**

36. For paragraph 27 of Schedule 3, substitute—

- "27.—(1) A transition member (P) will receive any benefits payable under this scheme as part of P's ill-health pension payable under the existing scheme if—
- (a) P applies before P's transition date for payment of an ill-health pension; and
  - (b) P's application is successfully determined after that date.
- (2) P will receive under this scheme any benefits due to P in respect of P's pensionable service in the existing scheme if P makes a successful application for payment of an ill-health pension under this scheme.".

**Paragraph 28 of Schedule 3 (entitlement to payment of total incapacity pension)**

37. For paragraph 28 of Schedule 3, substitute—

- "28.—(1) Save as provided in sub-paragraph (2), a transition member who becomes entitled to payment of a total incapacity pension under this scheme is not entitled to payment of a total incapacity pension under regulation E10A of the 2005 Regulations(7).
- (2) P may receive payment of total incapacity benefits under the 2005 Regulations if—
- (a) before P's transition date, P makes an application under regulation E10A of the 2005 Regulations which is not determined by the transition date;
  - (b) P's application is successfully determined after the transition date; and
  - (c) P has not made a subsequent application under regulation 159 of these Regulations for payment of total incapacity benefits.".

**Paragraph 31 of Schedule 3 (entitlement to payment of a short-service serious ill-health grant)**

38. For paragraph 31 of Schedule 3, substitute—

- "31.—(1) Save as provided in this paragraph, a transition member (P) who becomes entitled to payment of a short-service serious ill-health grant under this scheme is not entitled to payment of a short-service serious ill-health grant under regulation E21(8) of the 2005 Regulations.
- (2) P may receive payment of a short-service serious ill-health grant under the 2005 Regulations if—

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(5) Regulation J2 was amended by [S.S.I. 2007/189](#).

(6) Regulation E34(15) was amended by [S.S.I. 2007/189](#).

(7) Regulation E10A was inserted by [S.S.I. 2007/189](#) and amended by [S.S.I. 2008/227](#).

(8) Regulation E21 was substituted by [S.S.I. 2014/69](#).

- (a) before P's transition date, P makes an application under regulation E21 of the 2005 Regulations which is not determined by the transition date;
  - (b) P's application is successfully determined after the transition date; and
  - (c) P has not made a subsequent application under regulation 159 of these Regulations for payment of a short-service serious ill-health grant.
- (3) The amount of the payment of a short-service serious ill-health grant payable under sub-paragraph (2) is calculated under regulation 119 of these Regulations.”.

**Paragraph 33 of Schedule 3 (calculation of a surviving adult pension of a surviving adult of a transition member)**

39. In the heading and sub-paragraph (1) of paragraph 33 of Schedule 3, before “surviving adult pension” insert “short-term”.

**Paragraph 34 of Schedule 3 (long-term rate of a surviving adult pension of a surviving adult of a transition member)**

40. In paragraph 34 of Schedule 3, for “The rate” substitute “The long-term rate”.

**Paragraph 38 of Schedule 3 (calculation of a child pension of an eligible child of a transition member)**

41. In the heading and sub-paragraph (1) of paragraph 38 of Schedule 3, before “child pension” insert “short-term”.

**Paragraph 39 of Schedule 3 (rate of a child pension of an eligible child of a transition member)**

42. In the heading to paragraph 39 of Schedule 3, before “child pension” insert “long-term”.

**New paragraph 52 of Schedule 3**

43. After paragraph 51 of Schedule 3, insert—

**“Commutation: small pensions**

52. An application by a transition member under regulation 159 for a commutation under regulation 168 also has effect as an application for any commutation due to P under regulation J9(9) of the 2005 Regulations.”.

**New Schedule 4**

44. After Schedule 3, insert—



## “SCHEDULE 4

Regulation 214A

### Scheme valuation and employer cost cap

#### **Scheme valuation report**

1. The scheme manager must commission the scheme actuary to carry out a valuation of this scheme (“scheme valuation”) and any connected scheme, and to prepare a scheme valuation report, in accordance with, and by reference to the effective dates defined and set out in, HM Treasury directions under section 11 of the Act (referred to in this Schedule as “Treasury directions”).

#### **Employer cost cap**

2. The employer cost cap for this scheme is 12.4% of the pensionable earnings of members of this scheme.

#### **Breach of employer cost cap margins**

3. If the scheme actuary reports in a valuation report that the cost cap cost of the scheme, calculated following a valuation in accordance with Treasury directions, has gone beyond the margins specified in HM Treasury regulations under section 12 of the Act, paragraph 4 applies.

#### **Scottish Teachers’ Pension Scheme Advisory Board report**

4. Where this paragraph applies, the responsible authority must request the Scottish Teachers’ Pension Scheme Advisory Board constituted under Part 2 of these Regulations to report within six months of the request—

- (a) whether there is agreement between the employer representatives and the member representatives on a recommended procedure for aligning the cost cap cost of the scheme with the employer cost cap; and
- (b) if there is such agreement, the procedure which the board is in agreement to recommend.

#### **Action by the responsible authority**

5. On receipt of the Scottish Teachers’ Pension Scheme Advisory Board’s report, the responsible authority, in consultation with the scheme actuary and with such persons as the responsible authority considers appropriate, must—

- (a) review any recommendation put forward in that report; and
- (b) either—
  - (i) if agreement has been reached, and the responsible authority accepts the proposed procedure, implement the procedure agreed between the members of the Scottish Teachers’ Pension Scheme Advisory Board; or
  - (ii) if the responsible authority does not agree with any agreement reached, or if agreement has not been reached, make such change to the standard accrual rate as in the opinion of the scheme actuary is necessary to bring the cost cap cost of the scheme into line with the employer cost cap.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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**Timescale for action**

6. Any changes to the scheme made as a result of paragraph 5 are to take effect within four years of the effective date as at which the cost cap of the scheme was evaluated in the scheme actuary's valuation report.”.

St Andrew's House,  
Edinburgh  
25th February 2015

*JOHN SWINNEY*  
A member of the Scottish Government

We consent

2nd March 2015

*DAVID EVENNETT*  
*JOHN PENROSE*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## EXPLANATORY NOTE

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

These Regulations, which come into force on 1st April 2015, make various amendments of the Teachers' Pension Scheme (Scotland) (No. 2) Regulations 2014 ("the 2014 Regulations"). The 2014 Regulations establish a new pension scheme for teachers in Scotland with effect from that date.

The most significant provisions in these Regulations are as follows. Regulation 16 provides for members' contribution rates and for the salary bands used for establishing the rates to be uprated by reference to changes in the consumer prices index. Regulation 18 makes provision for employers' contributions. Regulation 35 deals with the situation where a transition member of the new scheme was involved in winding-down employment prior to the relevant transition date. Regulation 44 inserts a new Schedule 4 into the 2014 Regulations. The new Schedule includes provisions for scheme valuations and the employer cost cap and for the procedure to be followed in the event of a breach of the parameters for the cost cap cost of the scheme.