

**EXPLANATORY MEMORANDUM TO
THE TEACHERS' PENSION SCHEME REGULATIONS 2014**

2014 No. 512

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument establishes a scheme for the payment of pensions and other benefits to or in respect of teachers in England and Wales.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 The purpose of this instrument is to implement, under the powers provided in the Public Service Pensions Act 2013, a reformed pension scheme for teachers in England and Wales.
 - 4.2 Reform to the Teachers' Pension Scheme, and other public sector schemes, follows recommendations by the Independent Public Service Pensions Commission (The Commission), led by Lord Hutton of Furness. The Commission published its final report on 10 March 2011 and recommended a number of changes to public sector schemes in order to ensure long term sustainability as well as a more balanced distribution of costs between members, employers and the tax payer.
 - 4.3 This instrument introduces those changes including, a pension based on the member's average career earnings and a normal pension age equal to the state pension age.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England and Wales.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The cost of paying public service pensions has increased by a third in the last 10 years. The increasing burden on taxpayers and concerns about the fairness and sustainability of such pensions are among the reasons why the Government set up the Independent Public Service Pensions Commission (the Commission), chaired by Lord Hutton of Furness, to undertake an independent review of public service pensions and to make recommendations about how pensions can be made sustainable and affordable, whilst at the same time, remaining fair to the workforce and the taxpayer.

7.2 On 9 March 2012 the Department published a Proposed Final Agreement (PFA) which set out the design for a reformed Teachers' Pension Scheme (TPS). The key provisions of the reformed scheme include: a pension based on career average earnings; an accrual (build up) rate of 1/57th of pensionable earnings; and a Normal Pension Age (NPA) equal to State Pension Age (SPA), but with options to enable scheme members to retire earlier or later than their NPA.

7.3 Of the eight teaching unions, three agreed to the proposed final agreement, four rejected it and one reserved its position. The unions have engaged in industrial action, stating the TPS is sustainable in its current form and reform is unnecessary. While recognising their continued opposition to reform, unions have actively engaged with the Department in developing the detail of the reformed TPS.

7.4 On 7 May 2013 the Department published the consultation document: Consultation – Proposals for implementation of the reformed Teachers' Pension Scheme in 2015. The consultation document set out the Department's proposals on the detail of how the PFA for the reformed TPS should be implemented (i.e. how it is proposed the new arrangements will work in practice) and sought views on the proposals.

7.5 A significant number of respondents raised issues about whether the public sector schemes should be reformed, and the overall design for the reformed scheme, as set out in the proposed final agreement for the TPS. Those included claims that there is no need to change the existing structure for the TPS; the scheme as currently designed is affordable and fair; and that moving the normal pension age for teachers to the state pension age is not appropriate given the physical and mental demands of teaching. The Government's response to the consultation is available <https://www.education.gov.uk/consultations/index.cfm?action=conResults&consultationId=1891&external=no&menu=3>

7.6 This instrument provides for a reformed Teachers' Pension Scheme and includes details on how the various recommendations, made by the Commission and set out in the Department's consultation, will be implemented.

7.7 Specifically, Parts 4 and 5 set out the operation of a career average scheme. These parts provide that each member will build up a pension each year calculated as 1/57th of the member's pensionable earnings. The pension is held in a pension account and at the

start of each year (i.e. 1 April) indexation is applied.

7.8 Indexation is applied at different rates depending on the member's status in the scheme. An active member (that is a member who is participating in the scheme and paying contributions) receives an indexation rate of 1.6 percentage points above the rate published by Her Majesty's Treasury. A deferred member (someone who was an active member but has since stopped participating in the scheme without applying for benefits) receives indexation equal to the rate published by Her Majesty's Treasury.

7.9 Another recommendation of the Commission was that normal pension age within schemes, i.e. the age at which a member is entitled to a full, unreduced, pension should be equal to the state pension age. The Public Service Pensions Act 2013 provides, in section 10, that this should apply to all specified schemes (of which the TPS is one). As such there is no requirement to provide specific regulation in this instrument other than to refer to the Act within the definitions.

7.10 The employee and employer contribution rates specified in this instrument are those in force from 1st April 2014 in relation to the existing TPS as provided for in the Teachers' Pensions Regulations 2010 (SI 2010/990). As with the previous three years the member contribution rate from 1 April 2015 will be determined following further discussions with member and employer representatives and the rates stated in this instrument are likely to be subject to amendment before 1 April 2015

7.11 The employer contribution rate is set following a scheme valuation undertaken by the Government Actuary Department. The rate stated in this instrument (14.1%) is the current rate as set following the last valuation. A new scheme valuation is currently underway and as a result the rate stated in this instrument is likely to be subject to amendment before 1 April 2015.

Consolidation

7.12 These are the first Teachers' Pension Scheme Regulations produced under the powers provided in the Public Service Pensions Act 2013. There is no requirement to consolidate these regulations

7.13 The on-going reform of the TPS is expected to lead to further regulations taking effect in 2015. The regulations, due to be laid in autumn 2014 will make amendments to the Teachers' Pension Scheme Regulations 2014.

8. Consultation outcome

8.1 The Department launched a consultation on the Teachers' Pension Scheme Regulations 2014 on 13 September 2013 with a closing date of 11 November 2013. This allowed for a consultation period of 8 weeks.

8.2 Responses to the consultation came mainly from unions and employer

representatives. Teacher unions and other respondents used the consultation to voice their continued objection to any reform of the TPS. The arguments put forward included claims that there is no need to change the existing structure for the TPS; the scheme as currently designed is affordable and fair; and that moving the normal pension age for teachers to the state pension age is not appropriate given the physical and mental demands of teaching.

8.3 Those who responded directly to the question in the consultation were generally supportive of the structure of the regulations. Respondents who were less supportive did not provide specific details about their objections although a recurring theme was the need for clear communications. The Department has committed to ensuring a robust communications plan is in place to deliver targeted, detailed communications to employers and members. A full analysis of consultation responses is available on the Department's website <https://www.education.gov.uk/consultations/index.cfm?action=conResults&consultationId=1928&external=no&menu=3>

9. Guidance

9.1 A bespoke website dedicated to information and supporting resources will be available from April 2014. Resources on the site will include factsheets, videos, calculators, modellers and a dedicated toolkit. The website will be supported by on-going digital communications to both members and employers and through direct engagement with employers through the provision of training resources. Members and employers will be informed of the resources available to them through a series of email campaigns and through working with key partners to ensure all those affected have an understanding of those changes in the build-up to April 2015.

9.2 The Department has committed to making these regulations 12 months before the reformed Teachers' Pension Scheme begins to operate so that employers have sufficient time to make the necessary changes to their computer payroll systems. This period will also allow for the Department to implement a communications programme to provide effective guidance to stakeholders, service users and employers.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The introduction of a career average pension scheme will ensure the TPS is sustainable in the long term and continues to provide its members with a good quality and fair pension.

13. Contact

John Brown at the Department for Education Tel: 01325 735495 or email: john.brown@education.gsi.gov.uk can answer any queries regarding the instrument.