
STATUTORY INSTRUMENTS

2021 No. 805

The Teachers' Pensions (Miscellaneous Provisions) (Amendment) Regulations 2021

PART 2

AMENDMENTS TO REGULATIONS OF 2010

Amendments to the Teachers' Pensions Regulations 2010

3. The Teachers' Pensions Regulations 2010(1) are amended in accordance with the following provisions of this Part.

Amendment of regulation 7

4. In regulation 7(2) (employment not pensionable: general), in paragraph (4), after "accepted school", insert "or an accepted phased withdrawal school".

Amendment of regulation 8

5. In regulation 8(3) (employment not pensionable: contributions not paid), in paragraph (2), after "pensionable employment", insert "except to the extent that regulation 27(3) covers it".

Amendment of regulation 13

6.—(1) Amend regulation 13(4) (accepted schools) as follows.

(2) In paragraph (2)—

(a) after "accepted", insert "under paragraph (1)(b)"; and

(b) in sub-paragraph (c), after "a", insert "type A".

(3) In paragraph (4), after "by the Secretary of State", insert "under paragraph (1)(b)".

(4) In paragraph (5)—

(a) after "establishment", insert "falling within paragraph (1)(a) or"; and

(b) after "State" where it first appears, insert "under paragraph (1)(b)".

(5) In paragraph (6)—

(a) at the start of each of sub-paragraphs (d), (e) and (f) insert "if";

(b) in sub-paragraph (d), before each appearance of "guarantee", insert "type A".

(6) After paragraph (7) insert the following paragraph—

(1) S.I. 2010/990.

(2) Amended by S.I. 2011/614, 2012/2270, 2014/424, 2014/3255, 2020/354.

(3) Amended by S.I. 2012/2270.

(4) Amended by S.I. 2014/2651, 2019/502.

“(7A) In addition, where acceptance of an establishment as an accepted phased withdrawal school takes effect on an agreed date under regulation 13A(3), the establishment ceases to be an accepted school on that date.”.

(7) In paragraph (8), for “regulation “guarantee” means”, substitute “regulation “type A guarantee” means”.

Insertion of new regulation after regulation 13

7. After regulation 13 insert the following regulation—

“Accepted phased withdrawal schools

13A.—(1) An establishment is an accepted phased withdrawal school if the Secretary of State accepts it for the purpose of this regulation by giving its proprietor a written notice specifying the date on which it becomes an accepted phased withdrawal school.

(2) An establishment may be so accepted only if—

- (a) it is an accepted school,
- (b) its proprietor makes a written application to the Secretary of State, and
- (c) if the school is an accepted school accepted under regulation 13(1)(b), a type B guarantee is provided to the Secretary of State.

(3) An establishment, if so accepted by the Secretary of State, becomes an accepted phased withdrawal school from the date agreed between the Secretary of State and its proprietor, which must be the first day of a month after that in which the application under paragraph (2)(b) is made.

(4) An establishment so accepted by the Secretary of State ceases to be an accepted phased withdrawal school from the date specified in a written notice given to its proprietor by the Secretary of State.

(5) A notice under paragraph (4) may be given—

- (a) if the proprietor of the establishment makes a written application to the Secretary of State,
- (b) if the proprietor fails to comply with any provision of these Regulations or of TSAVCR 1994,
- (c) if, where a type B guarantee was previously provided to the Secretary of State, either the type B guarantee lapses or, because of a change in circumstances, the Secretary of State considers that the type B guarantee is insufficient,
- (d) if, where the proprietor of the establishment is an individual or a number of individuals, that individual or one of those individuals is an undischarged bankrupt or is the subject of a bankruptcy restrictions order or an interim order under Schedule 4A to IA 1986, or
- (e) if, where the proprietor of the establishment is a company—
 - (i) a proposal for a voluntary arrangement has been made or approved in relation to the company under Part 1 of IA 1986,
 - (ii) an administration application has been made or a notice of intention to appoint an administrator has been filed with the court or an administrator has been appointed for the company under Schedule B1 to IA 1986,
 - (iii) a receiver, manager or administrative receiver has been appointed for the company under Part 3 of IA 1986,

- (iv) 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 the company under Part 4 or 5 of IA 1986, or
 - (v) notice has been received that the company may be struck off the register of companies or an application to strike it off has been made under Part 31 of CA 2006.
- (6) The proprietor of an accepted phased withdrawal school must immediately give written notice to the Secretary of State of any change in proprietor or upon the occurrence of any of the events mentioned in paragraph (5)(d) or (e).
- (7) Where an establishment ceases to be an accepted phased withdrawal school—
- (a) it does not in consequence become an accepted school, but
 - (b) sub-paragraph (a) does not prevent a separate application being made for the establishment to be an accepted school under regulation 13.
- (8) For the purposes of this regulation a type B guarantee may be provided anew or may be provided by the continuation or variation of a type A guarantee under regulation 13.
- (9) In this regulation—
- “accepted phased withdrawal teacher” means—
- (a) as from the date agreed under paragraph (3), a person who, immediately before that date, is in pensionable employment at the establishment under Part 1 of Schedule 2 and is entitled to salary paid in full as indicated in regulation 7(2)(a),
 - (b) as from the date immediately after the end of a period of leave, which—
 - (i) is of a type specified in regulation 7(2)(b), and
 - (ii) has a continuous duration no longer than five years,a person who, immediately before the date agreed under paragraph (3), is in pensionable employment at the establishment but, because of that leave, is not so entitled,
 - (c) as from the date immediately after the end of a period of leave, which—
 - (i) is not of a type specified in regulation 7(2)(b), and
 - (ii) has a continuous duration no longer than five years,a person who, immediately before the date agreed under paragraph (3), is excluded, only in consequence of that leave, from counting as being in pensionable employment at the establishment, and
 - (d) as from the date immediately after the ending of the period of effect of an election under regulation 9, beginning before the date agreed under paragraph (3), a person who during that period is in employment at the establishment that, only because of the application of regulation 7(3) to that person, is excluded from counting as pensionable employment at the establishment;
- “type B 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 proprietor and from any other person responsible for employment at the establishment of accepted phased withdrawal teachers, in relation to pensions—
- (a) already payable by the establishment under these Regulations; and
 - (b) payable in respect of the pensionable employment of each accepted phased withdrawal teacher at the establishment under Part 1 of Schedule 2.”.

Amendment of regulation 27

8. At the end of regulation 27 (employers' contributions) add the following paragraph—
- “(3) The deemed exclusion by paragraph (2) of regulation 8 of periods covered by that paragraph from pensionable employment does not apply to this regulation or to Chapter 4 of this Part.”.

Amendment of Schedule 1

9. In Schedule 1(5) (glossary of expressions), after the expression “accepted employer” in the left hand column and its meaning “see regulation 14F” in the corresponding right hand column, insert the expressions in the left hand column and the meanings in the corresponding right hand column below—

accepted phased withdrawal school	see regulation 13A (accepted phased withdrawal schools)
accepted phased withdrawal teacher	see regulation 13A

Amendment of Schedule 2, Part 1

10. In Schedule 2, Part 1(6) (employments pensionable without election)—
- (a) in each of paragraphs 3 and 5, after “or”, insert “by”; and
- (b) after paragraph 3 insert the following paragraph—
- “3A. Accepted phased withdrawal teacher employed by the proprietor of, or by anyone else concerned in the management of, an accepted phased withdrawal school.”.

Amendment of Schedule 4

- 11.—(1) Amend Schedule 4(7) (contributions for additional pensions) as follows.
- (2) In paragraph 11(3)(a), for “the AP beneficiary’s death grant nominee or personal estate”, substitute “each person who in consequence of that death would be entitled to receive payment were the monthly payments a death grant falling within regulation 82”.
- (3) In paragraph 11(3)(b), for “the AP beneficiary’s death grant nominee or personal estate is not to”, substitute “no person covered by paragraph (a) is to”.
- (4) In paragraph 11(4), for “the AP beneficiary’s death grant nominee or personal estate”, substitute “each person covered by sub-paragraph (3)(a)”.

Amendment of Schedule 5

- 12.—(1) Amend Schedule 5(8) (family benefit contributions) as follows.
- (2) In paragraph 3(a)(ii), after “spouse”, insert “or (in the case of a woman who died on or after 5th December 2005) a male civil partner or a male spouse”.
- (3) In paragraph 3(b), for “woman with a male spouse or a male civil partner”, substitute “woman (with a male spouse) who died before 5th December 2005”.

(5) Amended by S.I. 2011/614, 2012/2270, 2014/424, 2014/2651, 2014/3255, 2019/502, 2019/1134, 2020/354.

(6) Amended by S.I. 2012/673, 2012/979, 2014/424, 2014/2651 (as read with regulation 2), 2015/643, 2019/502, 2019/1027.

(7) Amended by S.I. 2011/614, 2012/673, 2014/2651, 2019/1134.

(8) Amended by S.I. 2019/1134, 2019/1458.

Amendment of Schedule 8

- 13.—(1) Amend Schedule 8(9) (adult pension qualification service) as follows.
- (2) For paragraph 1(1)(e) substitute—
- “(e) where D is a woman—
- (i) who died on or after 5th December 2005, D’s widower or D’s male civil partner, or
- (ii) D’s widower with pre-1988 rights.”.
- (3) For paragraph 1(2)(h) substitute—
- “(h) any period in respect of which D has paid contributions under Schedule 5 (family benefit contributions) in a case where—
- (i) D was married or a civil partner at a time when D’s election under paragraph 1 of that Schedule was made and D’s surviving adult is D’s widow, widower or civil partner, or
- (ii) D had nominated a surviving nominated beneficiary by the time when that election was made and D’s surviving adult is a surviving nominated beneficiary;”.
- (4) For the heading to paragraph 2, substitute “**Pensions for widowers (other than widowers with pre-1988 rights) of female members who died before 5th December 2005**”.
- (5) In paragraph 2(1)—
- (a) after “woman”, insert “who died before 5th December 2005”, and
- (b) delete all the content after “pre-1988 rights”.
- (6) In paragraph 2(2)(f), delete all the content after “is a widower”.

Amendment of Schedule 9

- 14.—(1) Amend Schedule 9(10) (family benefit service) as follows.
- (2) For the heading to paragraph 3, substitute “**Pensions for widowers (other than widowers with pre-1988 rights) of female members who died before 5th December 2005**”.
- (3) In paragraph 3(1)—
- (a) after “woman”, insert “who died before 5th December 2005”, and
- (b) delete all the content after “pre-1988 rights”.
- (4) In paragraph 3(2)(a), for all the content after “(e) of”, substitute “Schedule 8 (Pensions for widowers (other than widowers with pre-1988 rights) of female members who died before 5th December 2005)”.

(9) Amended by S.I. 2019/1134, 2019/1458.

(10) Amended by S.I. 2019/1134, 2019/1458.