STATUTORY INSTRUMENTS

# 2017 No. 1084

# PUBLIC SERVICE PENSIONS, ENGLAND AND WALES
# EDUCATION, ENGLAND AND WALES

## The Teachers' Pensions Schemes (Miscellaneous Amendments) Regulations 2017

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| *Made - - - -* | *7th November 2017* |
| *Laid before Parliament* | *9th November 2017* |
| *Coming into force - -* | *30th November 2017* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972 ('the 1972 Act')(**1**) and sections 1(1)(**2**), (2)(d)(**3**), and (4), 2(**4**), 3(1), (2), (3)(a) and (c), 8(1)(a) and (2)(a) of, and paragraph 4 of Schedule 1, paragraph 4(a) of Schedule 2 and Schedule 3 to, the Public Service Pensions Act 2013 ('the 2013 Act')(**5**).

The Secretary of State has consulted the persons referred to in section 9(5) of the 1972 Act and in accordance with section 21 of the 2013 Act the Secretary of State has consulted the representatives of such persons as appear to the Secretary of State likely to be affected by these Regulations.

In accordance with section 9(1) of the 1972 Act(**6**) and section 3(5) of the 2013 Act, these Regulations are made with the consent of the Treasury.

### Citation and commencement

**1.** These Regulations may be cited as the Teachers' Pensions Schemes (Miscellaneous Amendments) Regulations 2017 and come into force on 30th November 2017.

(**1**) 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 Schedule 2 to, S.I. 2010/1158. Section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990.
(**2**) See section 1(4) of the 2013 Act for the meaning of "scheme regulations".
(**3**) See paragraph 4 of Schedule 1 to the 2013 Act for the meaning of "teachers".
(**4**) See section 2(2) of the 2013 Act for the meaning of "responsible authority".
(**5**) 2013 c.25.
(**6**) See S.I. 1981/670 which transferred the consent function in section 9(1) of the 1972 Act from the Minister for the Civil Service to the Treasury.

### Amendments to the Teachers' Pensions Regulations 2010

**2.** The Teachers' Pensions Regulations 2010(**7**) are amended in accordance with regulations 3 to 7.

### Amendment to regulation 57 (election to receive phased retirement benefits)

**3.** In paragraphs (2)(b) and (4)(c) of regulation 57 for "6 months" substitute "12 months".

### Amendment to regulation 59 (cessation of phased retirement pension)

**4.** In paragraph (1)(a) and (b) of regulation 59 for "6 months" substitute "12 months".

### Amendment to regulation 83 (death grant: death in service)

**5.** In regulation 83 after paragraph (3) insert —

"(3A) Paragraph (3) does not apply if —

(a) D made an application before D's death under regulation 107 (payment of benefits on application to Secretary of State) for retirement benefits on the basis that Case C, and no other Case (apart from Case A), applied to D's reckonable service;

(b) at the same time that D made the application mentioned in sub-paragraph (a), D made an application for commutation of the ill-health pension (and any total incapacity pension payable under regulation 65 (total incapacity benefits)) under regulation 118 (commutation: serious ill health); and

(c) following consideration of the applications mentioned in sub-paragraphs (a) and (b), the Secretary of State determines that the ill-health pension and, if applicable, any total incapacity pension payable with it, should be commuted.".

### Amendment to regulation 85 (death grant: death out of service)

**6.** In regulation 85 after paragraph (3) insert—

"(3A) Paragraph (3) does not apply if—

(a) D made an application before D's death under regulation 107 (payment of benefits on application to Secretary of State) for retirement benefits on the basis that Case C, and no other Case (apart from Case A), applied to D's reckonable service;

(b) at the same time that D made the application mentioned in sub-paragraph (a), D made an application for commutation of the ill-health pension (and any total incapacity pension payable under regulation 65 (total incapacity benefits)) under regulation 118 (commutation: serious ill health); and

(c) following consideration of the applications mentioned in sub-paragraphs (a) and (b), the Secretary of State determines that the ill-health pension and, if applicable, any total incapacity pension payable with it, should be commuted.".

### Amendment to Schedule 7 (retirement benefits)

**7.** In Schedule 7 —

(a) for paragraph 3 substitute—

(7) S.I. 2010/990; relevant amending instruments are S.I. 2011/614, 2012/673, 2012/2270 and 2014/424.

"**3.**—(1) Except as provided in paragraph 4, a person (P) falls within this paragraph if—

(a) P satisfies either Conditions 1, 2 and 3 or Condition 4, and

(b) P makes an application under regulation 107 for retirement benefits on the basis that Case C, and no other Case (apart from Case A), applies to P's reckonable service.

(2) Condition 1 is that P left all pensionable employment because P was incapacitated (or this was one of the reasons why P left all pensionable employment).

(3) Condition 2 is that P makes the application under regulation 107—

(a) before leaving excluded employment, or

(b) within 2 years of the last day of pensionable employment.

(4) Condition 3 is that immediately before making the application under regulation 107 P is incapacitated and is likely to be incapacitated permanently.

(5) Condition 4 is that P's ability to carry out any work is impaired by more than 90% and is likely to be impaired by more than 90% permanently.

(6) Where P satisfies Conditions 1, 2 and 3, the illness or injury P relies upon in the application under regulation 107 must be—

(a) the same illness or injury which was the reason or, as the case may be, one of the reasons for P leaving pensionable employment, or

(b) connected to or consequent upon that injury or illness.",

(b) after paragraph 4(2) insert—

"(2A) But Condition A does not apply if—

(a) D made an application to the Secretary of State before D's death for retirement benefits on the basis that Case C, and no other case (apart from Case A), applied to D's reckonable service;

(b) at the same time that D made the application mentioned in paragraph (a), D made an application for commutation of the ill-health pension (and any total incapacity pension payable under regulation 65) under regulation 118 (commutation: serious ill health); and

(c) following consideration of the applications mentioned in paragraphs (a) and (b), the Secretary of State determines that the ill-health pension and, if applicable, any total incapacity pension payable with it, should be commuted.",

(c) after paragraph 12(3), insert—

"(3A) P does not fall within paragraph 10 if—

(a) P makes the application mentioned in paragraph 10(1)(e);

(b) P's application is made in accordance with paragraph 12(1) or (3)(b); and

(c) P returns to pensionable or excluded employment before the entitlement day specified in P's application.".

**Amendments to the Teachers' Pension Scheme Regulations 2014**

**8.** The Teachers' Pension Scheme Regulations 2014(**8**) are amended in accordance with regulations 9 to 19.

**Substitution of regulation 74 (meaning of "actuarial adjustment")**

**9.** For regulation 74 substitute—

"**74.**—(1) In these Regulations, "actuarial adjustment" means the actuarial adjustment that is applied when calculating the annual rate of pension payable to—

(a) a member who, on the entitlement day for a pension other than an age retirement pension or an ill-health pension, has not reached normal pension age; or

(b) an active member or a deferred member who becomes a pensioner member after reaching normal pension age.

(2) In the case of an actuarial adjustment applied under paragraph (1)(b)—

(a) the actuarial adjustment only relates to a period of pensionable service of the active member or the deferred member after reaching normal pension age; and

(b) the actuarial adjustment must only be applied to the accrued earned pension of the active member or the deferred member that accrued before reaching normal pension age.".

**Amendment to regulation 89 (interpretation of Chapter)**

**10.** In regulation 89(1), for the definition of "average annual rate" substitute the following definition—

""average annual rate" means the average rate of pensionable earnings in a 12 month period".

**Amendment to regulation 90 (the reduced annual rate condition)**

**11.** In regulation 90(c), for "6 months" substitute "12 months".

**Amendment to regulation 91 (the new employment condition)**

**12.** In regulation 91(c), for "6 months" substitute "12 months".

**Amendment to regulation 97 (cessation of phased retirement pension)**

**13.** In regulation 97(b)(i) and (ii), for "6 months" substitute "12 months".

**Amendment to regulation 104 (entitlement to early retirement pension)**

**14.** In regulation 104, after paragraph (1) insert—

"(1A) P is not entitled to payment of an early retirement pension from the entitlement day if—

(a) P has applied under regulation 162 for payment of an early retirement pension;

(b) P's application is made in accordance with regulation 103(2) or (4)(b); and

(**8**) S.I. 2014/512 to which there are amendments not relevant to these Regulations.