STATUTORY INSTRUMENTS

2015 No. 594

EDUCATION, ENGLAND AND WALES

The Teachers' Superannuation (Additional Voluntary Contributions) (Amendment) Regulations 2015

Made - - - -	*5th March 2015*
Laid before Parliament	*10th March 2015*
Coming into force - -	*1st April 2015*

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972(**1**) and section 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act 2013(**2**).

In accordance with section 9(5) of the Superannuation Act 1972 and section 21(3) of the Public Service Pensions Act 2013, the Secretary of State has consulted representatives of local authorities, teachers and other persons likely to be affected.

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

Citation and Commencement

1. These Regulations may be cited as the Teachers' Superannuation (Additional Voluntary Contributions) (Amendment) Regulations 2015 and come into force on 1st April 2015.

Amendments to the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994

2. The Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994(**3**) are amended as set out in the following regulations.

(**1**) 1972 c. 11; Section 9 was amended by; the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), sections 4(1), 8(3) and (4) and 11(1) and (2); the Pension Schemes Act 1993, Schedule 8, paragraph 7; S.I. 2001/3649; 2010/1158; and the Public Service Pensions Act 2013 (c. 25), Schedule 8, paragraphs 6 and 9; there are other amendments not relevant to these Regulations. There are amendments to section 12 which are not relevant to these Regulations.

(**2**) 2013 c. 25

(**3**) S.I. 1994/2924; amended by S.I. 1995/2004, 1997/3001, 2000/666, 2000/3028, 2001/3649, 2005/2198, 2006/736, 2006/2214, 2006/3122, 2008/541, 2010/990, 2100/614 and 2013/472.

Amendments to regulation 2 (Interpretation)

3. In regulation 2–

(a) after sub-paragraph (2)(e) insert—

"(f) references to the 2014 Regulations are references to the Teachers' Pension Scheme Regulations 2014(**4**).";

(b) in paragraph (3), after the definition of "authorised provider" insert—

""AVC policy age" means—

(a) except in the circumstances mentioned in sub-paragraphs (b), (c), (d) or (e), a person (P)'s normal pension age on the date P makes an election under regulation 4;

(b) if a transfer is made under regulation 10, a person (P)'s normal pension age at the date that written notice from P under regulation 10(1) is received by the Secretary of State;

(c) in respect of a pension credit member, the pension debit member's normal pension age on the date that an election under regulation 4 is made by the pension debit member or notice from the pension debit member under regulation 10(1) is received by the Secretary of State;

(d) if a contributor or participator (P) realises all of the funds invested on P's behalf under regulation 9(1) and 10(2) and makes a subsequent election under regulation 4, P's normal pension age at the date of the subsequent election;

(e) if a person (P) is in pensionable service under the 2010 Regulations at the time of making an election under regulation 4, and has more than one normal pension age under regulation 48 of those Regulations, P's normal pension age in relation to P's pensionable service on the date P makes the election;";

(c) in paragraph (3), for the definition of "civil partner" substitute—

"is to be construed in accordance with section 1 of the Civil Partnership Act 2004(**5**);";

(d) in paragraph (3), in the definition of "dependent", for sub-paragraphs (a) to (c) substitute—

"(a) any surviving spouse or surviving civil partner;

(b) any person who is an eligible child as defined in regulation 98 of the 2010 Regulations or regulation 137 of the 2014 Regulations;

(c) any person in respect of whom at the time of death of the participator or contributor a nomination under regulation 90 or 91 of the 2010 Regulations or regulation 135 or 136 of the 2014 Regulations has effect;

(d) any surviving adult as defined in regulation 134 of the 2014 Regulations;";

(e) in paragraph (3), in the definition of "insurance company", for "Part 4" substitute "Part 4A";

(f) in paragraph (3), for the definition of "normal pension age" substitute—

"in the case of a person who, at the time of making an election under regulation 4, is in pensionable service under the 2010 Regulations is to be construed in accordance with the 2010 Regulations, and in the case of a person who, at the time of making an election under regulation 4, was in pensionable

(**4**) S.I. 2014/512; amended by S.I. 2014/2652 and 2014/3255.
(**5**) 2004 c. 33; section 1 was amended by the Marriage (Same Sex Couples) Act 2013 (c. 30), Schedule 7, Part 2, paragraphs 33 and 34(a) and (b).

service under the 2014 Regulations is to be construed in accordance with the 2014 Regulations;";

(g) in paragraph (3), omit the definition of "old regulation C9 of the 1997 regulations";

(h) in paragraph (3), in the definition of "participator"—

(i) at the end of sub-paragraph (a) insert "in respect of all investments made under regulation 9(1) and 10(2) and has not made a further election under regulation 4 in respect of further pensionable service";

(ii) at the end of sub-paragraph (c) insert "and who is not otherwise a contributor";

(i) in paragraph (3), after the definition of "participator" insert—

""pension commencement lump sum" is to be construed in accordance with Part 1 of Schedule 29 to the 2004 Act;";

(j) after the definition of "pension sharing order" insert—

""pensionable service" is to be construed in accordance with section 37 of the Public Service Pensions Act 2013(**6**);

"qualifying recognised overseas pension scheme" is to be construed in accordance with section 169 of the 2004 Act;";

(k) in paragraph (3), omit the definition of "pensionable employment";

(l) in paragraph (3), omit the definition of "reckonable service";

(m) in paragraph (3), in the definition of "salary", for sub-paragraphs (a) and (b) substitute—

"(a) where a person is in pensionable service under the 2010 Regulations at the time the contribution is paid, the salary calculated in accordance with regulations 15 and 16 of the 2010 regulations and regulation C2 of the 1997 Regulations as it has effect by virtue of paragraph 6 of Schedule 13 to the 2010 Regulations;

(b) where a person is in pensionable service under the 2010 Regulations at the time the contribution is paid in relation to contributions payable under regulation 19 of the 2010 Regulations the salary determined in accordance with the provisions of those regulations for the purposes of calculating those contributions;

(c) where a person is in pensionable service under the 2014 Regulations at the time the contribution is paid, in relation to pensionable earnings under Chapter 4 of Part 3 of the 2014 Regulations, the earnings determined in accordance with the provisions of that Chapter;";

(n) in paragraph (3), after the definition of "tax year" insert—

""uncrystallised fund pension lump sum" is to be construed in accordance with section 166 of the 2004 Act.".

Amendment to regulation 3 (Making and acceptance of elections)

4. In regulation 3, after paragraph (3) insert—

"(4) The date of an election under these Regulations shall be the date on which written notice is received by the Secretary of State.".

(**6**) 2013 c. 25

Amendments to regulation 4 (Election to pay regular and lump sum contributions)

5. In regulation 4(1), for "pensionable employment" substitute "pensionable service".

Amendments to regulation 5 (Provision for lump sum death benefit)

6. In regulation 5—

(a) in paragraph (2), for "a pension policy" substitute "an annuity policy";

(b) for paragraph (4) substitute—

"(4) A person (P) who has continued to pay regular contributions up to P's AVC policy age, but does not then cease to be in pensionable service, may elect to pay regular contributions up to P's first birthday after P reached AVC policy age to provide for a lump sum death benefit unless the authorised provider determines that provision under this regulation shall continue without the need for the authorised provider to verify P's entitlement to that provision; and, so long as P has not ceased to be in pensionable service, further elections may be made annually in respect of years commencing on P's first birthday after P reached AVC policy age and subsequent birthdays.";

(c) for paragraph (5) substitute—

"(5) An election made by P under paragraph 4 lapses if P retires, ceases to be in pensionable service during the year in question or ceases to pay contributions pursuant to an election under regulation 4(1).".

Amendment to regulation 6 (Variation and cancellation of elections)

7. In regulation 6(3)(a) omit "subject to regulation 8(3)".

Amendments to regulation 7 (Contributor)

8. In regulation 7—

(a) for paragraph (2) substitute—

"(2) Before 6th April 2015, a person ceases to be a contributor if that person—

(a) has become entitled to retirement benefits under Schedule 7 to the 2010 Regulations;

(b) has, under regulation 6(1)(d) or 6(3)(c), cancelled the election to pay regular contributions; or

(c) subject to paragraph (3), has ceased to be in pensionable service and is not paying contributions under regulation 19 of the 2010 Regulations or regulation 26 of the 2014 Regulations.

(2A) On and from 6th April 2015 onwards, a person (P) ceases to be a contributor if P—

(a) has realised all of the funds invested on P's behalf under regulations 9(1) and 10(2) and has not made a subsequent election under regulation 4 in respect of further pensionable service;

(b) has, under regulation 6(1)(d) or 6(3)(c), cancelled the election to pay regular contributions; or

(c) subject to paragraph (3), has ceased to be in pensionable service and is not paying contributions under regulation 19 of the 2010 Regulations or regulation 26 of the 2014 Regulations.";