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STATUTORY INSTRUMENTS

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**2019 No.**

**PUBLIC SERVICE PENSIONS, ENGLAND AND WALES**

**The Teachers' Pensions Schemes (Amendment) Regulations  
2019**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State makes these Regulations in exercise of the powers in sections 9, 12 and 24 of, and Schedule 3 to, the Superannuation Act 1972(a) (“the 1972 Act”).

The Secretary of State also makes these Regulations in exercise of the powers in section 3 of, and Schedule 3 to, the Public Service Pensions Act 2013(b) (“the 2013 Act”).

The Secretary of State has consulted the persons referred to in section 9(5) of the 1972 Act and section 21(1) of the 2013 Act.

In accordance with sections 9(1) and 24(1) of the 1972 Act and section 3(5) of the 2013 Act, these Regulations are made with the consent of the Treasury(c).

**PART 1**

**Introductory**

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Teachers' Pensions Schemes (Amendment) Regulations 2019 and come in to force on [ ] but the amendments made by the regulations specified in paragraphs (2) and (3) have effect as specified in those paragraphs.

(2) The amendments made by regulations 6, 7, 9, 10(a)(i) and (b), 11 to 13, 15, 16, 18 and 19 are to be treated as having had effect at all times on and after 1st September 2010.

(3) The amendments made by regulations 3, 4, 21, 23 to 25, 27, 29, 32 and 33 are to be treated as having had effect at all times on and after 1st April 2015.

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(a) 1972 c.11; relevant amendments to section 9 were made by sections 4, 8, and 11 of the Pensions (Miscellaneous Provisions) Act 1990 (c.7), paragraph 9 of Schedule 8 to the Pension Schemes Act 1993 (c.48) and article 107 of S.I. 2001/3649, and there are other amendments not relevant to this instrument; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions Act) 1990. There are amendments to section 24 which are not relevant to these Regulations.

(b) 2013 c. 25.

(c) The functions of the Minister for the Civil Service were transferred to the Treasury by virtue of article 2 of S.I. 1981/1670.

## PART 2

### Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994

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

2. The Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994(a) are amended in accordance with regulations 3 and 4.

#### **Amendments to regulation 2**

3. In regulation 2(3), in the definition of "dependant"(b)—
- (a) omit paragraph (a);
  - (b) in paragraph (b), for "regulation 98" substitute "regulation 93";
  - (c) in paragraph (c) omit—
    - (i) "90 or",
    - (ii) "135 or";
  - (d) in paragraph (d), after "as defined" insert "in regulation 92 of the 2010 Regulations or".

#### **Amendments to regulation 12**

4. In regulation 12—
- (a) in paragraph (1)(c)—
    - (i) in sub-paragraph (a), at the end insert " , or, if earlier, the date the person satisfies the condition for retirement or the condition for retirement following further employment specified in regulation 60(2) or (3) of the 2010 Regulations",
    - (ii) in sub-paragraph (b), at the end insert " , or, if earlier, the entitlement day for an ill-health pension as defined in regulation 109 of the 2014 Regulations";
  - (b) in paragraph (11)(d), for the words "a small pension lump sum as defined in regulations 11, 11A and 12" , substitute "an authorised payment of a description in Part 2".

## PART 3

### Teachers' Pensions Regulations 2010

#### **Amendments to the Teachers' Pensions Regulations 2010**

5. The Teachers' Pensions Regulations 2010(e) are amended in accordance with regulations 6 to 19.

#### **Revocation of regulations 2A and 2B**

6. Omit regulations 2A and 2B(f).

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(a) S.I. 1994/2924.  
(b) Paragraphs (a) to (d) were substituted for paragraphs (a) to (c) by regulations 2 and 3(d) of S.I. 2015/594.  
(c) Paragraph (1) was substituted by regulations 2 and 11(a) of S.I. 2015/594.  
(d) Paragraph 11 was substituted by regulations 2 and 8(d) of S.I. 2006/736 and was amended by regulations 2 and 11(i) of S.I. 2015/594.  
(e) S.I. 2010/990.  
(f) Regulations 2A and 2B were inserted by Article 4 of, and paragraph 17(1) and (2) of Part 2 of Schedule 3 to, S.I. 2014/560.

**Amendment to regulation 82**

7. In regulation 82(7), for “surviving nominated partner” substitute “surviving qualifying partner”.

**Pension protection lump sum death benefit**

8. After regulation 87 insert—

**“Pension protection lump sum death benefit**

**87A.**—(1) A death grant is treated for the purposes of FA 2004 as a pension protection lump sum death benefit if and to the extent that—

- (a) the member has given written notice to the Secretary of State that the death grant is to be so treated; and
- (b) the death grant meets all of the conditions required by FA 2004 for it to be treated as a pension protection lump sum death benefit (see paragraph 14 of Part 2 (lump sum death benefit rule) of Schedule 29 to FA 2004(a)).

(2) Tax may be deducted from the death grant if the Secretary of State is liable for tax under section 206 (special lump sum death benefits charge) of FA 2004(b) in respect of a pension protection lump sum death benefit.”.

**Amendments to regulation 90**

9. In regulation 90—

- (a) for the heading substitute “Surviving qualifying partner”;
- (b) for paragraph (1) substitute—

“(1) A person (B) is a surviving qualifying partner of a person (A), if the condition in paragraph (2) is satisfied for a continuous period of at least 2 years ending on A’s death.”;

- (c) omit paragraphs (3) and (4).

**Amendments to regulation 91**

10. In regulation 91—

- (a) in paragraph (3), for sub-paragraph (b) substitute—

“(b) no person has satisfied the condition in regulation 90(2) in relation to A for a period of two years or more.”;

- (b) in paragraph (4), for sub-paragraph (c) substitute—

“(c) a person has satisfied the condition in regulation 90(2) in relation to A for a period of two years or more.”.

**Amendment to regulation 92**

11. In regulation 92, for “surviving nominated partner” substitute “surviving qualifying partner”.

**Amendment to regulation 103**

12. In regulation 103(7), after “surviving civil partner” insert “, surviving qualifying partner”.

**Amendments to Schedule 1**

13. In Schedule 1—

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- (a) c. 12; paragraph 14 was amended by section 65 of, and paragraphs 32 and 34(1), (2) and (3) of Part 1 of Schedule 16 to, the Finance Act 2011 (c. 11).
  - (b) There are amendments to section 206 which are not relevant to this instrument.



- (i) in sub-paragraph (1)—
    - (aa) after “person” insert “(P)”,
    - (bb) after “nomination”, in the first place it occurs, insert “under regulation 91”,
  - (ii) after sub-paragraph (1) insert—

“(1A) Where P lives with a person who fulfils the condition in regulation 90(2) on more than one occasion, there is a separate election period in respect of each of those occasions.”;
  - (e) in paragraph 9—
    - (i) omit the word “and” after sub-paragraph (b) and after that sub-paragraph insert—

“(ba) where a person fulfils the condition in regulation 90(2) in relation to P, that person, and”,
    - (ii) in sub-paragraph (c), after “nomination” insert “under regulation 91”;
  - (f) in paragraph 14, for “this paragraph” substitute “this Schedule”.
- (2) In Part 2 of Schedule 5, in paragraph 27, for “surviving nominated partner” substitute “surviving qualifying partner”.

### **Amendments to Schedule 7**

#### **17. In Schedule 7—**

- (a) in paragraph 3(a), in sub-paragraph (3)(a) after “excluded employment”, insert “, non-pensionable sick leave, non-pensionable family leave or a career break”;
- (b) in paragraph 6, after sub-paragraph (1) insert—

“(1A) The Secretary of State may only make the determination mentioned in sub-paragraph (1)(c) after consideration of a medical report produced no more than 18 months before the date on which P made the application under regulation 107 for retirement benefits.”.

### **Amendments to Schedule 8**

#### **18. In Schedule 8—**

- (a) in paragraph 1—
  - (i) for the heading substitute “Pensions for surviving adults with pre-1988 rights”,
  - (ii) for sub-paragraph (1) substitute—

“(1) This paragraph applies where a surviving adult is—

    - (a) D’s widow;
    - (b) D’s surviving civil partner;
    - (c) D’s surviving nominated beneficiary;
    - (d) where D is a man, D’s widower; or
    - (e) where D is a woman, D’s widower with pre-1988 rights.”;
- (b) in paragraph 2—
  - (i) in the heading, after “for widowers” insert “of female members”,
  - (ii) in sub-paragraph (1), for “D’s surviving adult is a widower” substitute “D is a woman whose surviving adult is a widower”;
- (c) omit paragraph 3;
- (d) in paragraph 4—
  - (i) in the heading, for “surviving nominated partners” substitute “surviving qualifying partners”,

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(a) Paragraph 3 was substituted by regulations 2 and 7(a) of S.I. 2017/1084.

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- (ii) in sub-paragraph (1), for “surviving nominated partner” substitute “surviving qualifying partner”,
- (iii) in sub-paragraph (2)—
  - (aa) in the opening words, for “family benefit” substitute “adult pension”,
  - (bb) in paragraph (e), omit the words from “provided” to the end.

### Amendments to Schedule 9

#### 19. In Schedule 9—

- (a) in paragraph 1—
  - (i) in the heading, for “widows and widowers with pre-1988 rights where marriage”, substitute “surviving adults with pre-1988 rights where marriage or civil partnership”,
  - (ii) in sub-paragraph (1)(a), for “widow or widower with pre-1988 rights” substitute “a person referred to in paragraph 1(1)(a), (b), (d), or (e) of Schedule 8”,
  - (iii) in sub-paragraph (1)(b) after “married to” insert “, or in a civil partnership with,”,
  - (iv) in sub-paragraph (4)(a) for “widows, surviving nominated beneficiaries and widowers” substitute “surviving adults”;
- (b) in paragraph 2—
  - (i) in the heading, for “widows and widowers with pre-1988 rights where marriage” substitute “surviving adults with pre-1988 rights where marriage or civil partnership”,
  - (ii) in sub-paragraph (1)(a) for “widow or widower with pre-1988 rights” substitute “a person referred to in paragraph 1(1)(a), (b), (d), or (e) of Schedule 8”,
  - (iii) in sub-paragraph (1)(b), after “married to” insert “, or in a civil partnership with,”;
- (c) in paragraph 3—
  - (i) in the heading, after “widowers”, in the first place it occurs, insert “of female members”,
  - (ii) in sub-paragraph (1), for “D’s” substitute “D is a woman whose”,
  - (iii) in sub-paragraph (2)(a), after “widowers” in the first place it occurs, insert “of female members”;
- (d) omit paragraph 4;
- (e) in paragraph 5—
  - (i) in the heading, for “surviving nominated partners” substitute “surviving qualifying partners”,
  - (ii) in sub-paragraph (1) for “surviving nominated partner” substitute “surviving qualifying partner”,
  - (iii) in sub-paragraph (2)(a) for “surviving nominated partners” substitute “surviving qualifying partners”.

## PART 4

### Teachers’ Pension Scheme Regulations 2014

#### Amendments to the Teachers’ Pension Scheme Regulations 2014

20. The Teachers’ Pension Scheme Regulations 2014(a) are amended in accordance with regulations 21 to 29.

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(a) S.I. 2014/512.

**Amendment to regulation 3**

21. In regulation 3, in the definition of “surviving nominated partner” for “nominated” substitute “qualifying”.

**Amendments to regulation 109**

22.—(1) In regulation 109, the existing text becomes paragraph (1).

(2) After that paragraph insert—

“(2) The scheme manager may only make the determination mentioned in paragraph (1)(a) after consideration of a medical report produced no more than 18 months before the date on which P made the ill-health application.”.

**Amendments to regulation 134**

23. In regulation 134—

- (a) in paragraph (1)(c), for “surviving nominated partner” substitute “surviving qualifying partner”;
- (b) in paragraph (2)(c), for “surviving nominated partner” substitute “surviving qualifying partner”.

**Amendments to regulation 135**

24. For regulation 135 substitute—

**“Surviving qualifying partner**

135.—(1) For the purposes of a survivor’s pension, a member’s partner (P), is a “surviving qualifying partner” if the conditions in paragraph (2) are satisfied for a continuous period of at least 2 years ending on the member’s death.

(2) The conditions are—

- (a) the member is able to marry or form a civil partnership with P;
- (b) the member and P live with each other as if they were a married couple or civil partners;
- (c) neither the member nor P lives with a third person as if they were a married couple or civil partners; and
- (d) the member and P are financially interdependent or P is financially dependent on the member.”.

**Amendment to regulation 136**

25. In regulation 136(4), after sub-paragraph (c) insert—

“(ca) no person has satisfied the conditions in regulation 135 in relation to the member for a continuous period of 2 years or more;”.

**Pension protection lump sum death benefit**

26. After regulation 141 insert—

**“Pension protection lump sum death benefit**

141A.—(1) A death grant is treated for the purposes of FA 2004 as a pension protection lump sum death benefit if and to the extent that—

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- (a) the member has given written notice to the scheme manager that the death grant is to be so treated; and
- (b) the death grant meets all of the conditions required by FA 2004 for it to be treated as a pension protection lump sum death benefit (see paragraph 14 of Part 2 (lump sum death benefit rule) of Schedule 29 to FA 2004).

(2) Tax may be deducted from the death grant if the scheme manager is liable for tax under section 206 (special lump sum death benefits charge) of FA 2004 in respect of a pension protection lump sum death benefit.”.

**Amendments to regulation 160**

27. In regulation 160(a)—

- (a) the existing text becomes paragraph (1);
- (b) in paragraph (1)(c)(i) for “or surviving civil partner” substitute “, surviving civil partner or surviving qualifying partner”;
- (c) after paragraph (1) insert—

“(2) In paragraph (1)(c)(i) “surviving qualifying partner” has the meaning given by regulation 135.”.

**Amendment to Schedule 1**

28. In Part 4 of Schedule 1, in paragraph 31, at the end insert—

“(1) the Jewish Schools Network”.

**Amendments to Schedule 3**

29. In Schedule 3—

- (a) in Part 1, in paragraph 1, in the definition of “transition date”, after paragraph (a) insert—

“(aa) for a full protection member of the existing scheme to whom a retirement pension has become payable under the existing scheme, means the day on which that member becomes an active member of this scheme;”;
- (b) in Part 8, in paragraph 53, omit “, 90 (surviving nominated partner)”.

**PART 5**

**Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015**

**Amendments to the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015**

30. The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015(b) are amended in accordance with regulations 31 to 33.

**Amendments to regulation 2**

31. In regulation 2(2)—

- (a) for the definition of “appropriate person” substitute—

““appropriate person” means—

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(a) Regulation 160 was amended by regulation 3(1) and (8) of S.I. 2018/218.  
(b) S.I. 2015/601.

- (a) in the case of a person employed at a foundation or voluntary aided school or a foundation special school within the meaning of section 20 of the 1998 Act<sup>(a)</sup>, the local authority;
- (b) in the case of any other employee, the person by whom the employee was employed;  
”;
- (b) in the definition of “compensating authority”, for “regulation 35” substitute “regulation 33(3);
- (c) in the definition of “deciding authority”, for “regulation 34” substitute “regulation 33(2)”.

### **Delegation of scheme manager functions**

**32.** After regulation 2 insert—

#### **“Delegation of scheme manager functions**

**2A.** The scheme manager may delegate any functions exercisable by the scheme manager under these Regulations, including this power to delegate.”.

### **Amendment to regulation 23**

**33.** In regulation 23, for paragraphs (b) and (c) substitute—

“(b) if P is a member of an existing scheme with a normal pension age of 65, a transition member or a member of the 2015 scheme, 37.5% of the notional annual compensation rate.”.

## **PART 6**

### **Deeming provision in relation to the Teachers’ Pensions Regulations 1997**

#### **Deeming provisions**

**34.—(1)** A person who could have been nominated under Regulation E22A (nomination of partner) of the Teachers’ Pensions Regulations 1997 (“the 1997 Regulations”)<sup>(b)</sup> and who satisfied the condition in regulation 90(2) of the Teachers’ Pensions Regulations 2010 (“the 2010 Regulations”) for a period of at least 2 years at the time of the member’s death, is to be treated for the purposes of the 1997 Regulations as they apply by virtue of Schedule 13 to the 2010 Regulations, at all times on and after 1st January 2007, as if that person were the surviving nominated partner of the deceased.

(2) Regulation E27 (relevant service) of the 1997 Regulations<sup>(c)</sup> is to be read as if—

- (a) in paragraph (1), after “the deceased is” in the first place it occurs, there were inserted “a person who is survived by a surviving civil partner,”;
- (b) paragraph (2A) were omitted.

(3) Regulation E28 (amount of surviving spouse’s, surviving civil partner’s, surviving nominated partner’s or nominated beneficiary’s long-term pension) is to be read as if paragraph (7A)<sup>(d)</sup> were omitted.

We consent to the making of these Regulations

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(a) 1998 c. 31; there are amendments to section 20 which are not relevant to these Regulations.  
(b) S.I. 1997/3001 which were revoked by S.I. 2010/990; savings are made by Schedule 13 to the 2010 Regulations. Regulation E22 was inserted by 7 paragraph 41 of Schedule 3 to S.I. 2006/3122.  
(c) A relevant amendment was made to regulation E27(1) by regulation 21(2) of, and paragraph (2A) was inserted by regulation 21(4) of, S.I. 2005/2198. There are other amendments to regulation E27 which are not relevant to this instrument.  
(d) Paragraph (7A) was inserted by regulation 23(6) of S.I. 2005/2198 and amended by regulation 9(5)(c) of S.I. 2006/3122.

Date *Names*  
Two of the Lords Commissioners of Her Majesty's Treasury

Signed *Name*

Date Minister of State  
Department for Education

### EXPLANATORY NOTE

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

These Regulations make amendments to the following sets of Regulations which extend to England and Wales—

- The Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994 ("the AVC Regulations 1994");
- The Teachers' Pensions Regulations 2010 ("the Pensions Regulations 2010");
- The Teachers' Pension Scheme Regulations 2014 ("the Pensions Regulations 2014"); and
- The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2015 ("the Compensation Regulations 2015").

Certain provisions have effect from a date before these Regulations commence. Section 12(1) of the Superannuation Act 1972 and section 3(3)(b) of the Public Service Pensions Act 2013 provide authority for the provisions to take effect as from a date earlier than the making of these Regulations.

Part 2 amends the AVC Regulations 1994 to make changes consequential to amendments to other Regulations relating to surviving partners. It also makes minor drafting corrections in relation to small pot payments and ill-health benefit entitlement.

Part 3 amends the Pensions Regulations 2010 to remove a requirement to complete a nomination form in order for a cohabiting partner of a member to receive survivor benefits; to equalise survivor benefits payable to surviving civil partners and same sex spouses with those payable to widows; to provide that medical evidence to support a claim of incapacity to work must be produced no more than 18 months before the claim is made; to align pension protection lump sum death grants with tax legislation; to permit eligible organisers of the Jewish Schools Network to become members of the scheme; and to make a minor drafting correction.

Part 4 amends the Pensions Regulations 2014 to make amendments to parallel those made by Part 3 to the Pensions Regulations 2010 relating to nomination of cohabiting partners and survivor benefits payable to surviving civil partners and same sex spouses and additionally provides clarification that members who take 2010 scheme benefits and then join the 2014 scheme should be treated as re-employed members.

Part 5 makes minor drafting corrections to the Compensation Regulations 2015.

Part 6 makes provision to ensure that the amendments to the Pensions Regulations 2010 relating to nomination of cohabiting partners and survivor benefits payable to surviving civil partners and same sex spouses apply in cases where benefits are payable pursuant to the Teachers' Pensions Regulations 1997.

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations. The instrument has a minimal impact on the public sector.