

«NAME\_AND\_ADDRESS»

Direct line: 01325392796  
e-mail: valerie.tooth@dfes.gsi.gov.uk  
Local fax: 01325 392212

18 November 2003

Dear «SALUTATION»

**THE TEACHERS' PENSIONS (AMENDMENT) REGULATIONS 2004**

I am writing to tell you that we will be making some amendments to the Teachers' Pensions Regulations 1997. It is intended that the amendments will come into force on or before 31<sup>st</sup> March 2004.

The proposed amendments are detailed in Annex A enclosed. The draft amending regulations will be sent to you shortly.

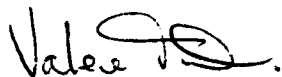
Any comments on the proposed changes should be made in writing to -

Robert Elliot  
Pensions and Medical Fitness  
School Workforce Unit  
Department for Education and Skills  
Mowden Hall  
DARLINGTON  
DL3 9BG

Email: robert.elliott@dfes.gsi.gov.uk

**The deadline for comments is 13 February 2004.**

«END\_SALUTATION»



MRS VALERIE TOOTH  
School Workforce Unit

att

## **The Teachers' Pension (Amendment) Regulations 2004**

### **Commentary on proposed changes to the Teachers' Pension Scheme (TPS)**

*(References to regulations are all related to the Teachers' Pensions Regulations 1997.)*

#### **Independent Schools that are accepted into the TPS (Regulation B3)**

1. Independent schools applying to be accepted into the Teachers' Pension Scheme after the operative date of these amending regulations will be required to have in place a bond, guarantee or indemnity in a form and amount that is satisfactory to the Department. The 1,200 or so independent schools already accepted into the TPS are not affected.

#### **Current Added Years (Regulation C9 and C10)**

2. It is proposed that the notional salary used to calculate combined contributions be uprated in line with the Retail Prices Index. The existing regulation places a burden on employers by prescribing that the former employer should, annually, provide the notional contributable salary on which contributions are payable. In addition, the changes to teachers' pay structures and allowances mean that it is not possible or appropriate for employers to state what salary a particular individual would have received had they remained in post. The new arrangements would apply to all elections where the period being covered commences on or after the date the amendment comes into force.

#### **Commutation (Regulation E19)**

3. It is proposed that the option to commute pension on grounds of serious ill-health will be extended to scheme members who are retiring on the grounds of their attaining age 60 or over.

4. It is also proposed to introduce new provision to commute trivial pensions to a once-and-for-all lump sum.

#### **Accounts (Regulation G1 and Schedule 13)**

5. The regulations (regulation G1) requires the Secretary of State to produce a set of cash accounts that show the flow of money through the Scheme. However, this method of accounting has been superseded by Treasury's requirement for resource based accounts. It is therefore necessary to amend regulation G1 to match Treasury requirements. It is proposed to replace the requirement for a set of cash accounts with a requirement on the Secretary of State to keep accounts of the scheme "in a form approved by the Treasury and that the accounts shall be open to examination by the Comptroller and Auditor General". Schedule 13 would become redundant. The National Audit Office supports this amendment.

The following amendments are consequential on other developments or are of a technical nature:

### **Employer for the Purposes of the TPS (Regulation A3)**

6. The regulation requires amendment to properly reflect the terms of the Schools Standards and Framework Act 1998 in relation to the decision-making and paying responsibilities of LEAs and Governing Bodies when elections are made by either body under the various scheme provisions mentioned in regulation A3.

### **Continuation Provision (Regulation B2)**

7. Provision will be made to allow scheme members employed by former voluntary grant-aided bodies to continue in pensionable employment where the employer's source of funding for the purposes of the employment has switched from LEA recurrent grant-aid to LEA-paid fees. This would be subject to employer consent and confirmation will be required that the individuals have continued in the same post and undertaking the same functions, and that the organisation's constitution as a non-profit making body has remained unchanged.

### **Independent Schools that are accepted into the TPS (Regulation B3)**

8. This regulation requires to be amended to reflect the new arrangements for registering independent schools that came into force on 1 September 2003.

### **Function Providers (Regulation B3A)**

9. The heading for this regulation was overlooked and needs to be inserted.

### **Paternity and Adoption Leave (Regulation B4)**

10. Provision is made for statutory paternity and adoption pay to be pensionable. It is proposed that provision is also made in anticipation of employers who adopt a policy of contractual paternity and adoption pay.

### **Contributable Salary (Regulation C1(4))**

11. The reference to School Achievement Award Scheme is now redundant.

### **Death Grant (Regulation E20)**

12. It is necessary to make it clear that under no circumstances will an in-service death grant be paid in respect of a person who had become entitled to payment of ill-health retirement benefits. This reflects both existing policy and practice; but the drafting of regulation could allow for an unintended interpretation.

### **Long-term family benefits and elected further employment (Regulation E26)**

13. The two-year qualifying period for entitlement to long-term family benefits in relation to elected further employment is unintended and will be amended to one year to match the qualifying period for personal benefits.

### **Payment of Benefits (Regulation E33)**

14. There is a demand from some pensioners to receive their pension on a quarterly basis. It is proposed to make provision for quarterly payment but the pension will still be payable in arrears and no interest will be payable.

## **Pensionable Employment (Schedule 2)**

15. **Paragraph 2:** The wording has been inadvertently corrupted and should be corrected to read "Teacher in a special school not maintained by a local education authority."

16. **Paragraph 5:** The word 'City' will be removed from 'City Academies'. Also, the paragraph, as it applies to CTCs and Academies will be amended to remove the references to 'organiser and supervisor'. This brings the coverage of CTCs and Academies into line with that of LEA schools.

17. **Paragraph 24:** Edexcel and the Yorkshire and Humberside Association for Further and Higher Education should be removed from the list.

18. **Paragraph 26:** The International School of Hamburg should be removed.

## **Persons formerly members of the National Health Service Pension Scheme (Schedule 10 Part VI)**

19. The schedule will be amended to cater for the acceptance of bulk transfer values as well as individual cash equivalent transfer values for staff whose employment is compulsorily transferred from a NHS employer to a TPS employer. But the special provisions described in paragraph 37 (regulation E4 shall apply in relation to certain persons as if the reference to the age of 60 were references to age 55) will only apply where this liability has been reflected in the transfer value received from the National Health Service Pension Scheme.

20. Also, an amendment is required to provide that a person who leaves employment before attaining age 55 loses the right to unreduced benefits at age 55. This removes the unintended effect that gave such individuals an entitlement that they would not have had if they had remained in the NHSPS.

November 2003