

TPS Regulations Consultees

Direct line: 01325 392060
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Our Ref: File 53/63

18 December 2007

Dear Colleague

The Teachers' Pensions (Amendment) Regulations 2008 and The Teachers' Superannuation (Additional Voluntary Contributions) (Amendment) Regulations 2008

My letter of 8 November 2007 invited your comments on a commentary on the main proposed amendments to the above regulations, which a) reflected the resolution of a couple of outstanding issues identified during the review of the Teachers' Pension Scheme (TPS); b) provided some simplification and greater clarity in some existing provisions of both the main scheme and the AVC regulations and; c) made a few technical corrections.

I had hoped to have the draft amending regulations available to send to you before the Christmas break but given that the consultation on the draft consolidated regulations is beginning I have taken the view that, in an effort to avoid you being inundated, the amending regulations will not be issued until early in the New Year. In the meantime, the attached further commentary gives you an update on subsequent developments on the amending regulations.

As before, your comments are welcome on both commentaries and the draft regulations when they are circulated.

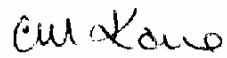
They should be made in writing **by 30 January 2008** to:

Shirley Richardson
Pensions and Medical Fitness Unit
Department for Children, Schools and Families
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DARLINGTON
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DL3 9BG

Email: shirley.richardson@dcyf.gsi.gov.uk

A copy of this document will be placed on the Teachers' Pensions website along with a list of the organisations being asked to take part in this consultation.

Yours faithfully

A handwritten signature in black ink, appearing to read "Christine Kane".

Christine Kane
Pensions and Medical Fitness Unit
School Resources Group

COMMENTARY ON DRAFT REGULATIONS

The Teachers' Pensions Regulations 1997

Application of the Earnings Cap (regulation C1(8))

1. We proposed the removal of the earnings cap from the TPS with effect 1 April 2008. To avoid a windfall pension gain to those whose salaries are currently subject to the cap, it was proposed that their service between 1 June 1989 and 31 March 2008 would be apportioned.

2. There was recognition that some individuals already have in place agreed remuneration packages with their employers calculated to mitigate the effect of the earnings cap and that it would be appropriate and manageable to provide these individuals with the option of having the earnings cap removed, or of retaining the cap for as long as they remain in post with the current employer; subject to the agreement of that employer

3. It is proposed that a six month transition period i.e. to 1 October 2008, will be introduced to allow individuals to take independent financial advice and discuss their options with their employer. The formula provided in my earlier letter would then include the earnings cap figure applicable at the date the cap is removed and the salary used would be what would have been the pensionable pay if the cap had not applied in the 365 days of pensionable employment up to the last day of the month prior to the removal of the cap. Teachers' Pensions will be contacting employers/individuals early in the New Year about the possible impact.

Actuarial Review (Part G and regulation C3)

4. The regulation to ask the Scheme Actuary to consider as part of the 2008 and future valuations whether there is a case for a higher employee contribution to be paid by "high earners"; and to advise on the salary level at which a higher employee contribution should apply is now being taken forward through the Consolidation Regulations. It will no longer appear in the amending regulations.

Family Benefits (Regulation E22)

5. The definition of 'child' within the TPS Regulations was amended as a result of A-Day legislation on 6 April 2006 and had the effect of excluding children who had not been adopted but who were accepted as part of the family and wholly or mainly financially dependent on the scheme member from the definition of "child". The amending regulations will rectify the situation to include these children in that definition.

6. Retrospection to 6 April 2006 **will** apply but there are implications for some benefits already in payment. As children's pensions are exactly the same amount as spouse's pension but split between all eligible children you need to be aware that the retrospective aspect will not result in any increased children's pension payment overall, it would simply mean that the existing children's pension would be split between more people.

7. We will be asking TP to revisit any cases that may have occurred since 6 April 2006 with a view to recalculating pensions payable from the date the amending regulations come into force. We could seek recovery of the overpayments made to existing beneficiaries to enable us to pay backdated benefits to step-children but this could cause further distress so we are proposing that neither is done; a simple recalculation will take place to cover future benefit sharing between the eligible children going forward. Regulations will be framed to reflect this common sense approach.