
STATUTORY INSTRUMENTS

2021 No. 805

The Teachers' Pensions (Miscellaneous Provisions) (Amendment) Regulations 2021

PART 3

AMENDMENTS TO REGULATIONS OF 2014

Amendment of Schedule 1, Part 1

18.—(1) Amend Part 1(1) (general) of Schedule 1 (eligible employment) as follows.

(2) In paragraph 1, in the definition of “guarantee”, insert “type A” within the quotation marks after “guarantee”.

(3) In paragraph 2(2)(c), after “guarantee” insert “type A”

(4) In paragraph 2(6)(d) insert “type A”—

(a) after “a guarantee”;

(b) after “either the guarantee”; and

(c) after “that the guarantee”.

(5) After paragraph 2(7) insert the following sub-paragraph—

“(8) In addition, where acceptance of an establishment as an accepted phased withdrawal school takes effect on an agreed date under paragraph 2A, the establishment ceases to be an accepted school on that date.”.

(6) After paragraph 2 insert the following paragraph—

“Accepted phased withdrawal school

2A.—(1) An establishment is an accepted phased withdrawal school if the Secretary of State accepts it for the purpose of this paragraph by giving its proprietor a written notice specifying the date on which it becomes an accepted phased withdrawal school.

(2) An establishment may be so accepted only if—

(a) it is an accepted school,

(b) its proprietor makes a written application to the Secretary of State, and

(c) if the school is an accepted school accepted under paragraph 2(1)(b), a guarantee type B is provided to the Secretary of State.

(3) An establishment, if so accepted by the Secretary of State, becomes an accepted phased withdrawal school from the date agreed between the Secretary of State and its proprietor, which must be the first day of a month after the month in which the application under sub-paragraph (2)(b) is made.

(4) An establishment so accepted by the Secretary of State ceases to be an accepted phased withdrawal school from the date specified in a written notice given to its proprietor by the Secretary of State.

(5) A notice under sub-paragraph (4) may be given if—

- (a) the proprietor of the establishment makes a written application to the Secretary of State,
- (b) the proprietor fails to comply with any provision of these Regulations or of TSAVCR 1994,
- (c) where a guarantee type B was previously provided to the Secretary of State, either the guarantee type B lapses or, because of a change in circumstances, the Secretary of State considers that the guarantee type B is insufficient,
- (d) if, where the proprietor of the establishment is an individual or a number of individuals, that individual or one of those individuals is an undischarged bankrupt or is the subject of a bankruptcy restrictions order or an interim order under Schedule 4A to IA 1986, or
- (e) if, where the proprietor of the establishment is a company—
 - (i) a proposal for a voluntary arrangement has been made or approved in relation to the company under Part 1 of IA 1986,
 - (ii) an administration application has been made or a notice of intention to appoint an administrator has been filed with the court or an administrator has been appointed for the company under Schedule B1 to IA 1986,
 - (iii) a receiver, manager or administrative receiver has been appointed for the company under Part 3 of IA 1986,
 - (iv) a winding-up petition has been presented, a winding-up order has been made or a resolution for voluntary winding-up has been passed in relation to the company under Part 4 or 5 of IA 1986, or
 - (v) notice has been received that the company may be struck off the register of companies or an application to strike it off has been made under Part 31 of CA 2006.

(6) The proprietor of an accepted phased withdrawal school must immediately give written notice to the Secretary of State if—

- (a) there is a change of proprietor; or
- (b) any of the events mentioned in sub-paragraph (5)(d) or (e) occurs.

(7) Where an establishment ceases to be an accepted phased withdrawal school—

- (a) it does not in consequence become an accepted school, but
- (b) paragraph (a) does not prevent a separate application being made for the establishment to be an accepted school under paragraph 2.

(8) For the purposes of this paragraph a guarantee type B may be provided anew or may be provided by the continuation or variation of a guarantee type A under paragraph 2.

(9) In this paragraph—

“accepted phased withdrawal member” means—

- (a) as from the date agreed under paragraph (3), a person who, immediately before that date, is in pensionable service at the establishment and is entitled to salary paid in full as indicated in regulation 23(1)(a),
- (b) as from the date immediately after the end of a period of leave, which—

- (i) falls within regulation 23(1)(b) or (c), and
 - (ii) has a continuous duration no longer than five years,
a person who, immediately before the date agreed under paragraph (3), is in pensionable service at the establishment but, because of that leave, is not so entitled,
 - (c) as from the date immediately after the ending of a period of family leave or sick leave which—
 - (i) falls within regulation 23(2), and
 - (ii) has a continuous duration no longer than five years,
a person who, immediately before the date agreed under paragraph (3), is not in pensionable service at the establishment but only because of the application of regulation 23(2) to that person,
 - (d) as from the date immediately after the ending of the period of effect of an opt-out under regulation 28, subject to an opt-out notice received by the scheme manager under that regulation before the date agreed under paragraph (3), a person who is not in pensionable employment at the establishment but only because of the application of regulation 28 to that person, and
 - (e) as from the date immediately after the ending of the period of effect of an opt-out under regulation 31, subject to an opt-out notice received by the scheme manager under that regulation before the date agreed under paragraph (3), a person who is not in pensionable employment at the establishment but only because of the application of regulation 31 to that person;
- “guarantee type B” means a bond, guarantee or indemnity in a form and amount, and provided by a person, approved by the scheme manager in respect of sums due, under these Regulations and TSAVCR 1994, from the proprietor and from any other person responsible for employment at the establishment of accepted phased withdrawal members, in relation to pensions—
- (a) already payable by the establishment under these Regulations; and
 - (b) payable in respect of the pensionable service of each accepted phased withdrawal member at the establishment.”.