

Response to your request

Specifically I want to know if such an employer can:

1. Start using an alternative private pension scheme for a defined cohort of staff (e.g. new staffed hired post a specified date) whilst continuing membership unchanged for existing members of the above schemes?

Where an Independent School is an accepted school in either the Scottish Teachers' Superannuation Scheme (Final Salary) or Scottish Teachers' Pension Scheme 2015 (Career Average Re-valued Earnings (CARE)), all teachers in that school have access to these schemes depending on which one is appropriate to their circumstances. Neither of the regulations make any provisions for some teachers to be in the Scottish Teachers' Pension Schemes and others to be restricted to alternative schemes. There are no plans for the regulations to be amended.

2. Start using an alternative private pension scheme for all staff? For future contributions only, existing members of the above scheme would become deferred members and all staff would start a new pension plan/account in a separate private pension scheme for ongoing contributions.

Where an employer wishes to leave the Scottish Teachers' Pension Schemes, then they must take the action as set down in the regulations as detailed in STSS B5 (5) and STPS 2015 Schedule 1 (2) (4). If the employer ceases to be in the Scottish Teachers' Pension Schemes then the teacher will become a deferred member with preserved benefits being appropriate. This will impact in particular on Survivor's Benefits and Ill Health applications as the teachers will no longer be treated as active members of the scheme. For those in the CARE scheme, an active member receives indexation of CPI + 1.6%, however if they are a deferred member the pension pot will only attract CPI.

3. If there is a process and/or conditions that apply to either of these withdrawal options, please provide full details.

Where a school wishes to withdraw from the Scottish Teachers' Pension Schemes, both Final Salary in the Scottish Teachers' Superannuation Scheme and CARE in the Scottish Teachers' Pension Scheme 2015, then they must follow the guidance in the regulations as stated below. When an employer withdraws from The Scottish Teachers' Pensions Schemes, they withdraw from both the Final Salary and CARE schemes.

Extract from The Teachers' Superannuation (Scotland) Regulations 2005 (SSI 2005/393) (known as STSS) B5 Accepted school

(1) In pursuance of paragraph 2 of Schedule 2, subject to paragraph (6) and regulations B6 to B8, a teacher is in pensionable employment while employed in a school which is an accepted school for the purposes of this regulation.

(2) For the purpose of this regulation—

(a) “accepted school” means an independent school which— (i) immediately before the date on which these Regulations come into force was accepted under regulation B4 of the 1992 Regulations; or

(ii) being registered, and being the subject of a relevant application by its governing body or proprietor, is accepted by the Scottish Ministers as able to meet the requirements placed upon an employer under Part H to pay employers' contributions;

(b) “registered” means registered in the register of independent schools in accordance with Part V of the Education (Scotland) Act 1980; and

(c) “proprietor” has the meaning assigned to it by section 135 of the Education (Scotland) Act 1980 and includes a person who, by reason of holding any office or having any interest in a company by which the school is conducted, is substantially in the position of a proprietor.

(3) Notwithstanding the provisions of paragraph (2) the Scottish Ministers may, in such case as they think appropriate, accept under the provisions of this regulation an independent school which is for the time being only provisionally registered .

(4) The date on which an independent school becomes an accepted school under paragraph (2)(a)(ii) shall, unless an alternative date is agreed by the Scottish Ministers and the governing body or proprietor thereof, be the 1st September preceding acceptance of the application.

(5) An accepted school shall cease to be an accepted school on such a day as is specified in a notice in writing sent by the Scottish Ministers to the governing body or proprietor of the school on or after any of the following events—

(a) the receipt by the Scottish Ministers of an application by the governing body or proprietor that the school shall cease to be an accepted school;

(b) the school ceasing to be registered ;

(c) any default by the governing body or proprietor in the payment of contributions, whether under these Regulations or under the Teachers' Superannuation (Additional Voluntary Contributions)

(Scotland) Regulations 1995;

(d) failure by the governing body or proprietor to comply within one month with any requirement of the Scottish Ministers to make any report or return, give any information or produce any document, under regulation J4;

(e) failure by the governing body or proprietor to comply with any other provision of the Regulations relating to the employment of teachers in reckonable service; (f) the closure of the school.

(6) The service of a teacher in an accepted school shall not be pensionable employment if—

(a) the teacher is a proprietor thereof; or

(b) paragraph (2)(a)(i) applies to the school and the teacher's employment therein immediately before the date on which these Regulations come into force was not reckonable service.

Extract from The Teachers' Pension Scheme (Scotland) (No.2) Regulations 2014 (known as STPS 2015)

Schedule 1

Eligible Employment

2 Meaning of "accepted school"

(1) An establishment is an accepted school if—

(a) immediately before 1st April 2015 it was an accepted school under regulation B5 of the 2005 Regulations; or

(b) being registered, and being the subject of a relevant application by its governing body or proprietor, it is accepted by the scheme manager as able to meet the requirements placed upon an employer under regulation 186 to pay employers' contributions.

(2) Despite the terms of sub-paragraph (1)(b), the scheme manager may, in such case as it thinks appropriate, accept under that provision an independent school which is for the time being only provisionally registered.

(3) The date on which an independent school becomes an accepted school under sub-paragraph (1)(b) is the date agreed between the scheme manager and the school's proprietor, being the first day of a month after that in which the relevant application was made.

(4) An accepted school ceases to be accepted on such a day as is specified in a notice in writing sent by the scheme manager to the governing body or proprietor of the school on or after any of the following events—

(a) the receipt by the scheme manager of an application by the governing body or proprietor of the school seeking that it should cease to be an accepted school; (b) the school ceasing to be registered;

(c) any default by the governing body or proprietor in the payment of contributions, whether under these Regulations or under the Teachers' Superannuation (Additional Voluntary Contributions)

(Scotland) Regulations 1995;

(d) failure by the governing body or proprietor to comply within one month with any requirement of the scheme manager to make any report or return, give any information or produce any document under regulation 209;

(e) failure by the governing body or proprietor to comply with any other provision of these Regulations relating to the employment of teachers who are in eligible employment; (f) the closure of the school.