These notes refer to the Public Service Pensions Act (Northern Ireland) 2014 (c.2) which received Royal Assent on 11 March 2014

Public Service Pensions Act (Northern Ireland) 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Design

Section 8: Types of scheme

Section 8 specifies the types of pension scheme that can be set up under the Act.

Subsection (1) provides that the types of scheme which may be provided for in scheme regulations include defined benefits schemes, defined contributions schemes, and schemes of any other description. The meaning of defined contributions and defined benefits schemes is set out in section 34 (general interpretation). There is therefore a broad power to create pension and benefit schemes of different designs, subject to the restrictions that the rest of the section applies to defined benefits schemes, and to the other restrictions set out in the Act.

Subsection (2) sets out that any defined benefits scheme must be either a "career average revalued earnings scheme", or another type of defined benefits scheme specified in regulations made by the Department of Finance and Personnel.

Subsection (3) stipulates that final salary scheme designs may not be specified by Department of Finance and Personnel regulations. They are not a permitted form of defined benefits scheme.

Subsection (4) sets out the meaning of "career average revalued earnings schemes" (CARE schemes) for schemes made under section 1. In this type of scheme, members build up pension in each year of active membership based on their pensionable earnings in that year. The pension accrued in that way is then revalued each year until the person leaves pensionable service. The measure of revaluation varies from scheme to scheme and will be provided for in scheme regulations, subject to the arrangements in section 9 (revaluation). Subsection (5) provides that regulations under this section are subject to negative resolution of the Assembly, which is defined in Section 41(6) of the Interpretation Act (Northern Ireland) 1954.

Section 9: Revaluation

Section 9 deals with the procedure for revaluing the earnings of active members of pension schemes made under section 1, where those earnings (or a proportion of those earnings) are used to accrue pension benefits. It is concerned with the revaluation of the accrued pension of active members of schemes and not the uprating or indexation of pensions that are deferred or in payment (for this see the Pensions (Increase) Act (Northern Ireland) 1971, and the consequential amendments in paragraphs 2 to 9 of Schedule 8 to this Act).

By subsection (1), section 9 applies to schemes made under section 1 of the Act where scheme regulations provide for the pensions of members of those schemes to be revalued (until those members leave pensionable service of that scheme) by reference to changes in prices or earnings over a period specified in the regulations. This will apply to all CARE schemes and, it is envisaged, the vast majority of pension schemes created under the powers in the Act.

Subsection (2) provides for the Department of Finance and Personnel to make orders which specify the percentage increase or decrease in prices or earnings for the purposes of the revaluation. It ensures that the measures of prices and earnings are used and applied on a consistent basis for revaluation across public service pension schemes.

Subsection (3) sets out that the Department of Finance and Personnel may determine the change in prices or earnings, by reference to the general level of prices or earnings, which is to be estimated by the Department of Finance and Personnel in a manner that it considers to be appropriate.

Subsection (4) states that an order under this section must be made annually and may make different provision for different purposes. This is to allow some flexibility to give effect to different agreements on revaluation made with representatives of members of different schemes. For example, the agreed scheme design for firefighters could include revaluation of accruals by reference to the general change in earnings, whereas the agreed scheme design for civil servants could include revaluation of accruals by reference to the general change in prices.

Subsection (5) sets out the procedure for Department of Finance and Personnel orders under this section. In cases where the order specifies a percentage decrease (which could happen where changes in prices or earnings are negative) it is subject to the affirmative procedure (as defined in section 34). In all other cases, the order is subject to the negative resolution .

Subsection (6) disregards any gap in a person's pensionable service of up to five years for the purposes of subsection (1), so accruals are revalued during the gap as if the person were an active member. This is to allow those persons who have taken a break from pensionable service of less than five years to be treated, for pension purposes, as if they had remained in pensionable service in the scheme. It relates only to the revaluation of benefits already accrued in the scheme and does not give pensionable rights in relation to the years not served in public service.

***Section 10*: Pension age**

This section provides for the normal pension age and deferred pension age of members of most public service pension schemes to be the same as their state pension age, or 65, whichever is greater. But police officers and firefighters historically have had lower pension ages than other public servants, in recognition of the unique characteristics of the work they do.

Subsection (1) requires a scheme made under the powers in section 1 to make the normal pension age for members of that scheme the same as their state pension age, or 65, whichever is greater. The floor of age 65 is to account for the gender disparity in state pension ages at present, which is due to be equalised at 65 by 2018. “Normal pension age” is defined in subsection 10)(a) as the earliest age at which a member of the scheme is entitled to receive unreduced benefits upon retirement from active membership. “State pension age” is defined in subsection (10)(c) by reference to a person’s pensionable age as set out in Schedule 5 to the Pensions (Northern Ireland) Order 1995.

Subsection (2) excepts fire and rescue workers who are firefighters from the requirement to link normal pension age to state pension age in subsection (1). It provides that the normal pension age for firefighters should be specified in scheme regulations for the firefighters’ pension scheme, and that such regulations may specify any age not exceeding 60, but not less than 55.

Subsection (3) excepts members of the police service from the requirement in subsection (1) and provides that their normal pension age must be 60.

Subsection (4) requires a scheme made under section 1 to make the deferred pension age for members of that scheme the same as their state pension age, or 65, whichever is greater. Again, the floor of age 65 is to account for the gender disparity in state pension ages at present. “Deferred pension age” is defined in subsection (10)(b) as the earliest age at which a member of a scheme is entitled to receive unreduced benefits under the scheme after leaving active service before reaching normal pension age.

Subsection (5) requires any changes to normal or deferred pension age which occur as a result of a change in state pension age to apply to the calculation and payment of all benefits earned in a scheme to which that pension age is relevant. This includes benefits accrued in that scheme before the change in state pension age.

This section also applies to new schemes set up for other public bodies (see section 31(1) (new public body pension schemes)).

The effect of this section is to require normal and deferred pension ages in schemes made under powers in the Act, or governed by provisions in it, to change in line with any change to state pension age. So, where state pension age increases by one year the relevant normal and deferred pension ages would need to increase by one year. The increase would apply to all relevant benefits earned in a scheme set up under the Act where the normal and deferred pension age have been linked to state pension age. This will mean that if the state pension age changes, an active member of a scheme set up under the power in section 1 will take their entire relevant pension entitlements in that scheme at the new normal pension age, including those earned before the change to state pension age. It will not affect pension benefits that were accrued before the scheme member transferred into the public service pension scheme set up under or governed by the Act. Those pension benefits may be taken at the normal pension age for the scheme in which they were accrued, and on the terms that apply to that scheme.

Subsection (6) empowers the Department of Finance and Personnel to provide by order that the link for normal scheme pension age to state pension age should not apply for certain persons of such description as is specified. The order may make provision as to the normal pension age and the deferred pension age of such persons.

Subsection (7) requires the Department to consult all persons likely to be affected by the order before making an order under subsection (6).

Subsection (8) makes an order under subsection (6) subject to the affirmative procedure.

Subsection (9) provides that the Department is to conduct a review of the operation of the legislation every 2 years and lay a report before the Assembly within 6 months of that review having started.