

## **EXPLANATORY MEMORANDUM TO**

### **The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 2010**

**SR 2010 No. 136**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Education to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under the Superannuation (Northern Ireland) Order 1972 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. These regulations revoke and replace The Teachers' (Compensation for Premature Retirement and Redundancy) Regulations (Northern Ireland) 1991. Combined with the Teachers' Pensions (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010 No. xxx), which make complementary amendments to the Teachers' Superannuation (Northern Ireland) Regulations 1998, the effect of these regulations is to transfer to teachers' employers all the costs associated with compensation for premature retirement, including the early payment of unreduced pension benefits. They will also provide employers with discretion to make enhanced severance payments up to a maximum of 104 weeks' pay with no upper age limit.
- 2.2. Part 2 retains the existing provisions regarding discretionary compensation for redundancy.
- 2.3. Part 3 adds new provision regarding discretionary compensation for termination of employment. The maximum compensation which can be paid is 104 weeks' pay, less any redundancy payments to which the person is entitled and any compensation for redundancy paid under Part 2 of the regulations.
- 2.4. Part 4 adds new provision regarding mandatory compensation for premature retirement. Such mandatory compensation is the counterpart to provisions in the Teachers' Pensions (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010 No. xxx), which provide for the actuarial reduction of the retirement lump sum and the annual rate of the retirement pension in cases of premature retirement on or after 30 April 2010. The amount by which they are reduced is paid as lump sum compensation and annual compensation under regulation 7. The remainder of Part 4 makes consequential provision regarding abatement of the annual compensation under regulation 7 during further employment (regulation 8), payment of supplementary death grant (regulation 9) and short-term family benefits (regulation 10).

- 2.5. Parts 5 and 6 retain the provisions formerly in Parts III and IV of the 1991 Regulations regarding discretionary compensation for premature retirement (the so-called additional service credit).
- 2.6. Part 7 contains miscellaneous and supplemental provision regarding compensation under Parts 4 and 5. In addition provision is made regarding mandatory compensation for admitted service as a counterpart to the actuarial reduction of admitted service benefits based on premature retirement under provisions in the Teachers' Pensions (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010 No. xxx).

### **3. Background**

- 3.1. A combination of generous levels of enhancement and an increase in recent years in the number of premature retirements means that a significant increase in contributions to the Teachers' Pension Scheme – at least £60m per year – would be needed if the cost of premature retirement were to remain, as now, a burden on the Scheme. These arrangements have attracted severe criticism from the Public Accounts Committee.
- 3.2. The regulations will ensure that in future employers will pay for the extra cost of each premature retirement as and when it takes place. The new arrangements should encourage employers to make considered, prudent decisions about premature retirement.

### **4. Consultation**

- 4.1. A single consultation exercise commenced on 19 March 2009 for both the draft regulations and the equality screening of the regulations. The consultation closed on 15 May 2009. An 8-week consultation was undertaken rather than the normal 12-week period given the extensive consultation already undertaken with key stakeholders through the Teachers' Superannuation Consultative Committee and the Premature Retirement Compensation Working Group, both of which include representatives of the recognised teacher and lecturer unions and the employing authorities.
- 4.2. A total of 77 responses were received to the consultation. Respondents generally disagreed with the suggested changes to the Regulations. The consultation identified a number of specific issues and these have been arranged under the following headings: financial; impact on teachers; implications for employers; educational issues; timing; legislative; equality issues; consultation; and re-employment of retired teachers. The consultation summary has been placed on the Department's website.

### **5. Equality Impact**

- 5.1. A full Equality Impact Assessment was prepared and a consultation exercise carried out between 25 November 2009 and 29 January 2010. The consultation sought views on the Department's assessment of the equality impacts of the draft regulations; and any further information which could be useful in assessing those equality impacts. The consultation followed the Equality Commission's guiding principles to consultation contained in their Practical Guidance on Equality Impact Assessment.

- 5.2. During the consultation on the EQIA, responses were received from 18 organisations/ individuals. Of the respondents, 50% asserted that there would be impacts in relation to Section 75 groups; however no evidence was presented in support of the assertions.

## **6. Regulatory Impact**

- 6.1. A Regulatory Impact Assessment has not been prepared for these regulations as they have no impact on businesses, charities, social economy enterprises or voluntary bodies.

## **7. Financial Implications**

- 7.1. The draft regulations will have the effect of transferring to teachers' employers all the costs associated with compensation for premature retirement, including the early payment of unreduced pension benefits. To allow the Teachers' Pension Scheme to continue to bear these costs would mean that the Scheme's liabilities would continue to increase by upwards of £60m per year. This would have to be balanced by a significant increase in contributions to the Teachers' Pension Scheme.
- 7.2. The Department plans to make available at least £6m in 2010/11 to help employers manage teacher redundancies.

## **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. The Departmental Solicitor's Office has confirmed that the proposed draft regulations comply with Article 24 of the Northern Ireland Act 1998.

## **9. EU Implications**

- 9.1. Not applicable.

## **10. Parity or Replicatory Measure**

- 10.1. These new regulations will bring premature retirement provisions for teachers broadly into line with arrangements in Scotland and in England and Wales, where similar changes were made over a decade ago.

## **11. Additional Information**

- 11.1. Not applicable.