

EXPLANATORY MEMORANDUM TO

The Teachers' Pensions (Amendment) Regulations (Northern Ireland) 2010

SR 2010 No. 137

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 amend The Teachers' Superannuation (Northern Ireland) Regulations 1998. Together with the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 2010 (S.R. 2010 No. xxx), the combined 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. The regulations also make a technical amendment to the manner in which notional income is to be determined.
- 2.2. Regulation 4 substitutes a new regulation E4(7) which sets out the requirements for entitlement to benefits for those who are retired prematurely by their employer.
- 2.3. Regulations 5 and 6 provide for the actuarial reduction of the retirement pension and retirement lump sum payable in respect of those who are retired prematurely by their employer. The Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 2010 (S.R. 2010 No. xxx) make provision for the payment of the balance, and also provide employers with discretion to make enhanced severance payments up to a maximum of 104 weeks' pay with no upper age limit.
- 2.4. Regulations 7, 8 and 9 make consequential provisions.
- 2.5. Regulation 10 makes a change to Regulation G2(5), to provide for the manner in which notional investment income is to be determined.
- 2.6. Regulation 11 amends Schedule 1 to insert a definition of "compensating authority".

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.