

EXPLANATORY MEMORANDUM TO
THE PUBLIC SERVICE (CIVIL SERVANTS AND OTHERS) PENSIONS
(CONSEQUENTIAL PROVISIONS) REGULATIONS (NORTHERN
IRELAND) 2015

2015 NO. 81

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Finance and Personnel to accompany the above named statutory rule which is laid in draft before the Northern Ireland Assembly.
- 1.2. The Rule was laid before the Assembly in draft under the affirmative resolution procedure. Draft regulations were approved by the Assembly on 23rd February 2015.
- 1.3. The Public Service (Civil Servants and Others) Pensions (Consequential Provisions) Regulations (Northern Ireland) 2015 make consequential provision in relation to the new Northern Ireland Civil Service Pension Scheme under the Public Service Pensions Act (Northern Ireland) 2014 (c.2).
- 1.4. This Regulation supersedes the Public Service (Civil Servants and Others) Pensions (Consequential and Amendment) Regulations (Northern Ireland) 2015 which was incorrectly made.

2. Purpose

- 2.1. The Regulations modify the effect of other statutory provisions in their application to Northern Ireland Civil Service pension scheme. These amendments are necessary to ensure that the new 'alpha' pension scheme operates as intended within the wider framework of pensions and tax legislation.

3. Background

- 3.1. There are two changes required which will be made by draft affirmative resolution:
 - Transitional provisions to stop transitional members being treated as deferred members of their pre-2015 scheme. Members with service in both a pre-2015 'old' scheme and a 2015 scheme will be treated as active members and "in pensionable service" and not "deferred" members of the pre-2015 scheme for the purposes of

their contracting out entitlement in the State Second Pension. This will ensure they (and new members joining from 2015-2016) are correctly treated in reference to their pre-2015 scheme, or the new scheme for the relevant period of time before contracting out is ended from 2016. Transitional members will also be treated as if their old scheme service has not terminated for treatment of their preserved benefits entitlement, protection of entitlements to increases in Guaranteed Minimum Pension and rights to a Cash Equivalent Transfer Value or scheme contribution refund.

- Consequential modifications to the tax regime in respect of ill health benefits. Ill-health benefits which are attributable to pensionable service in the old schemes will be treated for the purposes of the Annual and Lifetime allowances under the Finance Act 2004. Transitional members who take ill-health retirement will be protected from being assessed against tax twice as a consequence of their having non accruing membership of the 'old' scheme in addition to membership in the 2015 scheme.

4. Consultation

- 4.1. The Department of Finance and Personnel conducted a 4-week public consultation exercise on the draft Regulations (Northern Ireland) 2015, which ended on 19 December 2014. This was the subject of a shortened 4 week process with trades unions only, as the Regulations and the Act was already subject to a full public consultation. TUS did not have any objections and advised they would not be submitting a formal response.

5. Equality Impact

- 5.1. An Equality Screening exercise is not considered necessary since the introduction of the legislation will not differentially impact adversely on any of the groups identified at section 75 of the NI Act 1998.

6. Regulatory Impact

- 6.1. The policy relates exclusively to transitional and consequential provisions to be made under the Public Service Pensions (Northern Ireland) Act 2014. The Public Service Pensions Act (Northern Ireland) 2014 enabled the creation of a new career average pension scheme for the Northern Ireland civil service. It imposes no costs on business, charities, social economy enterprises or the voluntary sector. A Regulatory Impact Assessment is not considered necessary.

7. Financial Implications

- 7.1. HM Treasury has confirmed that where the appropriate reforms are not implemented a commensurate reduction will be applied to Northern Ireland block funding. Any delay in completing this part of the legislative process could result in a delay of implementing the new scheme; this will

incur a financial penalty from HM treasury. This would be effective from 2015/16 which is when the Government expects these reforms to be implemented. Analysis for the Civil Service pension scheme gives a figure of £60m a year.

8. Section 24 of the Northern Ireland Act

- 8.1. As these changes will amend primary legislation in respect of the Public Service (Civil Servants and Others) Pension Regulations (Northern Ireland) 2014, section 24 of the Act will be engaged. It is the view of the Department that the Regulations are compatible with section 24 of the NI Act 1998.

9. EU implications

- 9.1. None.

10. Parity or Replicatory Measure

- 10.1. In Great Britain these changes were achieved through the introduction of secondary legislation at scheme level. A Statutory Instrument was made under the affirmative process and will come into operation by 1 April 2015.
- 10.2. A similar approach is required in Northern Ireland to introduce these changes. Section 3 of the Public Service Pensions Act (Northern Ireland) 2014 contains a power to make consequential provisions of this type. Our intention is that the required changes can be accomplished in one statutory rule to facilitate the timely introduction of these changes by 1 April 2015.

11. Additional Information

- 11.1. Margaret Coyle at the Department of Finance and Personnel (telephone 02871 319202 or email Margaret.coyle@dfpni.gov.uk) or Peter Philip (telephone 02871 310706 or email peter.philip@dfpni.gov.uk) can answer any queries regarding the Regulations.