

## **EXPLANATORY MEMORANDUM TO**

### **The Teachers' Pension Scheme (Consequential Provisions) (Amendment) Regulations (Northern Ireland) 2016**

**SR 2016 No. 134**

#### **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 Public Service Pensions Act (Northern Ireland) 2014 and is subject to the draft affirmative resolution procedure.

#### **2. Purpose**

- 2.1. These Regulations make a technical amendment to the Teachers' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015 which came into operation on 1 April 2015 and provide for the protection of increases in guaranteed minimum pensions after the abolition of contracting-out of the additional state pension under the Public Services Pensions Act (Northern Ireland) 2014 (c.2 (NI)), "the 2014 Act".
- 2.2. This amendment is required to modify the Pensions Scheme (NI) Act 1993 following the receipt of Royal Assent for the Pensions Act (NI) 2015 (c.5), "the 2015 Act", in June 2015. The 2015 Act amends the Pensions Scheme (NI) Act 1993, modifying the definition of "cessation date" and specifically introduces a date of 6 April 2016 for the abolition of contracting-out for salary related schemes.
- 2.3. Under the 2014 Act, certain current members of public service pension schemes, including the Northern Ireland Teachers' Pension Scheme (NITPS), have joined, or are to join, new pension schemes ("new schemes") as active members, whilst retaining certain benefits in their former pension schemes ("old schemes").
- 2.4. Chapter 3 of Part 4 of the Pension Schemes (Northern Ireland) Act 1993 concerns "anti-franking", or the protection of increases in guaranteed minimum pensions ("GMPs") which contracted-out schemes had to provide until 1997. For this purpose, the Regulations provide that the "cessation date", when a person ceases to be in contracted-out employment under the old scheme (and from which point GMPs may need to be increased) is treated as the date when the person leaves the new scheme, and not the date when they transfer from their old scheme to their new scheme. Regulation 9A includes a subsequent modification of the definition of "cessation date" in section 83 of the 1993 Act ; that definition was amended by the Pensions Act (Northern Ireland) 2015, as detailed in paragraph 2.2 above.

### **3. Background**

- 3.1. The Teachers' Pension Scheme (Consequential Provisions) Regulations (NI) 2015 were made in March 2015 and made modifications to primary legislation to ensure that the new 2015 Career Average Revalued Earnings (CARE) pension scheme introduced in April 2015 operates as intended in terms of its interaction with the wider framework of pensions and tax legislation.
- 3.2. At the time when the consequential provisions were made, necessary legislation to provide for the abolition of contracting-out for defined benefit salary related pension schemes had not yet been made. It was therefore necessary to defer making consequential provisions in respect of the protection of increases in guaranteed minimum pensions following the abolition of contracting-out.
- 3.3. Measures to implement the abolition of contracting-out for defined benefit salary related pension schemes were introduced by the Department for Social Development in the Pensions Act (NI) 2015 in June 2015. The 2015 Act amends the Pensions Scheme (NI) Act 1993, modifying the definition of "cessation date" and specifically introduces a date of 6 April 2016 for the abolition of contracting-out for salary related schemes.
- 3.4. This necessitates an amendment to the Teachers' Pension Scheme (Consequential Provisions) Regulations (NI) 2015 to give legislative effect to the previously omitted regulation by modifying the Pensions Scheme (NI) Act 1993.

### **4. Consultation**

- 4.1. The Department consulted with key stakeholders through the Teachers' Superannuation Consultative Committee (TSCC) and the NI Teachers Pension Scheme Advisory Board in the Autumn of 2014 prior to and during the formal consultation process undertaken before the making of the Teachers' Pension Scheme (Consequential Provisions) Regulations (NI) 2015 in March 2015. The residual legislation specifically addressed in the draft Teachers' Pension Scheme (Consequential Provisions) (Amendment) Regulations (Northern Ireland) 2015 was covered as part of that consultation process. The TSCC was the established forum for consultation on matters relating to the NITPS until 1 April 2015 when it was replaced by the NI Teachers' Pension Scheme Advisory Board. Like the TSCC, the Advisory Board comprises representatives from teachers' unions and employers.
- 4.2. A consultation on these amendment draft regulations was published on the Department of Education website on 16 October 2015. The Department notified those persons, and their representatives, which appear to the Department likely to be affected by the proposed amendment in accordance with section 21 of the Public Service Pensions Act (NI) 2014. The list of those whom the Department would normally expect to consult with on pensions issues has been published and can be viewed on the Department's website. Responses could be returned by email or by post. The closing date of the consultation was 13 November 2015.

- 4.3. A total of 2 responses were received. These were from a teacher union and from a representative body, both of which were content with the change to regulations.

## **5. Equality Impact**

- 5.1. An Equality Impact Assessment (EQIA) was carried out for the Pension Reform policy for NITPS as a whole, and this has been published on the Department's website. This legislation has no impact on the outcome of the EQIA.

## **6. Regulatory Impact**

- 6.1. A regulatory impact assessment has not been completed for these Regulations as they have no impact on businesses, charities, social economy enterprises or voluntary bodies.

## **7. Financial Implications**

- 7.1. In isolation this piece of legislation has no financial implications.

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

- 8.1. The Departmental Solicitor's Office has confirmed that the regulations comply with Section 24 of the Northern Ireland Act 1998 which requires that they are compatible with the rights in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

## **9. EU Implications**

- 9.1. None.

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

- 10.1. These regulations put in place similar consequential amendments to those implemented by the Teachers' Pension Schemes in Scotland and England and Wales.

## **11. Additional Information**

- 11.1. Not applicable.