EXPLANATORY MEMORANDUM TO

THE TEACHERS' PENSIONS (MISCELLANEOUS AMENDMENTS) REGULATIONS 2006

2006 No. 736

1. This explanatory memorandum has been prepared by The Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

2. Description

This instrument amends the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994 (1994 AVC Regulations), and the Teachers' Pensions Regulations 1997 (1997 TPS Regulations) to take account of mandatory and some non mandatory aspects of the Finance Act 2004.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Background

4.1 The Finance Act 2004 and associated regulations introduce a radical new tax regime for tax-privileged pension savings which will take effect from 6 April 2006. A new simplified regime will replace the eight existing tax regimes that cover different types of pension schemes and pension saving arrangements.

4.2 The objectives of the new tax regime are to modernise and simplify the over-arching framework, to increase individual choice and flexibility and cut industry costs by tackling the complexity and fragmentation caused by the current tax rules. There will be a single set of rules applying to all kinds of tax-privileged pension scheme which must be registered under Part 4 of the Finance Act 2004. From commencement of the new regime, 6 April 2006, all future tax-privileged pension savings will follow these new rules.

4.3 The existing tax regime governing occupational pension schemes limited the level and range of benefits payable by schemes and imposed tight limits on contributions that could be paid by scheme members. The new regime is based on each person being entitled to a Life Time Allowance (LTA) to which all pension savings in registered schemes count and with limits on what can be taken as a tax free lump sum. Individuals with pension savings in more than one scheme or arrangement are responsible for making sure that the LTA is not exceeded. Schemes are permitted to create a benefit structure within the Finance Act 2004 limits, and payments that exceed the prescribed limits are classed as unauthorised payments. Unauthorised payments carry a tax surcharge on the scheme member and in some cases the scheme manager, and could lead to a pension scheme being de-registered.

4.4 The amendments made by this instrument in the main remove or amend provisions in the 1994 AVC Regulations and the 1997 TPS Regulations that would otherwise result in an unauthorised payment. The amendments to the 1994 AVC Regulations also remove two restrictions that are no longer necessary from 6 April 2006.

5. Extent

This instrument applies to England and Wales.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The amendments will alter the limits on which a trivial pension can be commuted, this will be increased to come into line with the overriding rules in force with effect from 6 April 2006. Children's pensions will cease at age 23 in line with the Finance Act 2004 although some transitional provisions for pensions already in payment at 5 April 2006 and the children of current pensioners are also included. The minimum retirement age for new entrants to the Teachers' Pension Scheme (TPS) will be increased from age 50 to age 55 from 6 April 2006.

7.2 Some permissive changes are being made to the 1994 AVC Regulations including the ability to take 25% of the AVC fund as a tax free sum and to lift the limit on contributions in the Regulations, given that the limits on annual and lifetime allowances in the Finance Act 2004 will apply, as well as the option for active contributors to transfer the accumulated AVC fund to another registered pension scheme independently of the main Teachers' Pension Scheme.

7.3 In addition, there are some minor amendments to the 1994 AVC Regulations and the 1997 TPS Regulations to bring terminology into line with the new terminology in the Finance Act 2004.

7.4 A consultation exercise took place between 16 November 2005 and 1 February 2006 amongst 86 key stakeholder groups in England and Wales including trade unions and teacher employer organisations and details of the consultation were placed on the TeacherNet website with information on how individuals could respond. A total of 12 consultees responded, 2 offered no comment and there were 7 technical queries. Four respondents indicated positive support to the proposals. Two registered discontent that the proposals did not include the ability to lift the limit on contributions into the Teachers' AVC scheme. As a result of those representations and investigations into contingent liability falling to the Secretary of State it has now been decided to lift the limits on contributions (see paragraph 7.2).

8. Impact

8.1 An assessment of the cost implications to public service pension schemes and of the impact on business, charities and the voluntary sector of the proposals in this instrument is included in the regulatory impact assessment (RIA) titled 'Simplifying the taxation of pensions 'that was signed by Ruth Kelly (then Financial Secretary to the Treasury) on 1 April 2004. This full RIA updates and expands on the partial RIAs published alongside the December 2002 consultation document: *Simplifying the taxation of pensions: increasing choice and flexibility for all*, and the December 2003 document: *Simplifying the taxation of pensions: the Government's proposals.* These set out, in turn, the framework and the detail of how the simplification of the taxation of pensions would be implemented. A copy of the assessments have been placed in the libraries of both Houses of Parliament and can be viewed at: http://www.hmrc.gov.uk/ria/simplifying-pensions.pdf

8.2 For public sector schemes, once they are in a steady state following the major programme of reviews outlined in the December 2002 and June 2003 Pensions Green Papers (Cm 5677 and 5835), the long term effects are likely to be broadly cost neutral. Scheme administration for the TPS is carried out under contract by private contractors and the contracts provide for changes to comply with amendments to regulations. The implementation of these regulations will not place any additional burden on employers.

9. Contact

Mrs Christine Kane at the Department for Education and Skills.
Tel: 01325 391008 or
By email: Christine.kane@dfes.gsi.gov.uk who can answer any queries regarding the instrument.