These notes refer to the Public Service Pensions Act (Northern Ireland) 2014 (c.2) which received Royal Assent on 11 March 2014

Public Service Pensions Act (Northern Ireland) 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Public body pension schemes

Section 31: New public body pension schemes

There are defined benefits pension schemes for those in public service aside from the main schemes for civil servants, local government workers, health service workers, teachers, police, fire and rescue services, and devolved judiciary.

These are pension schemes run for the staff and office holders of non-departmental public bodies, arms-length bodies and similar bodies and offices ('public bodies').

Where it is not possible or appropriate for these schemes to be reformed by moving the staff and office holders into one of the new schemes established under section 1 of the Act, public bodies may be allowed to reform their current schemes or to set up new bespoke pension schemes along reformed lines. This section deals with the latter situation.

The section imposes constraints on the design of new pension schemes that may be created under the power in section 32 for those bodies and offices whose pension schemes are restricted for future accrual and whose members cannot join one of the schemes established under section 1. It also governs the design of pension schemes that are set up in the future or established under future legislation for public bodies (unless future legislation makes specific, different provision).

Subsection (1) identifies the provisions of the Act which apply to new public body pension schemes. These provisions ensure that such schemes contain the same core design, cost control and governance features of the schemes established under section 1.

Subject to that, the rules of such schemes can make such provision as the public authority establishing the scheme considers appropriate, because section 3(1) is applied to them by this subsection.

Subsection (2) clarifies that where the provisions identified in subsection (1) apply to a new public body, references to scheme regulations in those provisions are to be read as references to the rules of the scheme; and references to the responsible authority are to be read as references to the public authority which established the scheme.

Subsection (3) requires the Department of Finance and Personnel to consent to the establishment of a new public body pension scheme after this section is commenced, or the subsequent variation of the rules of such a scheme.

Subsection (4) sets out the meaning of ‘public body pension scheme’ and ‘new public body pension scheme’.

Section 32: Restriction of certain existing public body pension schemes

Section 32 contains provision for the Department of Finance and Personnel to specify public bodies whose pension schemes would be restricted, so that no benefits are provided under the scheme to or in respect of a person in relation to their service in the schemes after a date to be specified.

Subsection (1) provides powers for the Department to specify by order named bodies, offices, or descriptions of bodies or offices, to which the section would apply.

Subsection (2) places a duty on the public authority which is responsible for such a scheme to close the scheme for future service after a date determined by the authority.

Subsection (3) sets out that subsection (2) does not apply to defined contributions schemes or injury and compensation schemes. The obligation to secure that no further benefits are accrued beyond the date set will only apply to defined benefits schemes.

Subsection (4) allows pension schemes which are required to be closed under subsection (2) to continue to provide benefits by way of exception for certain members who are eligible for transitional protection. Where transitional protection is offered, it is expected to be offered on the same basis and timing as transitional protection in the schemes that are closed to future accruals under section 18. This will mean that the transitional protection is expected to be based upon a starting date of 1st April 2012, rather than any later date, despite the later progress of reform to public body pension schemes. Subsections (7) and (8) of section 18 will apply to transitional arrangements in the public body schemes closed to future accruals.

Subsection (5) allows for the obligation to prevent future accrual of rights in public body defined benefit schemes, and exceptions to that, to be achieved by amending existing public body defined benefit schemes.

Subsection (6) explicitly sets out that subsection (2) also applies to death in service benefits.

Subsection (7) allows the public authorities responsible for a public body scheme to establish new pension schemes for staff or office-holders where it is not possible for those persons to become members of one of the major schemes established under section 1. Section 31 provides details of the types of scheme that may be established in such cases.

Subsection (8) prevents a public authority which closes a scheme in accordance with subsection (2) from exercising any existing statutory function or other power so as to establish a new defined benefits scheme. Its purpose is to ensure that replacement schemes will only be made using the power in subsection (7).

Subsection (9) provides that where an existing public body scheme was established by trust deed, subsections (2) and (4) supersede any conflicting provision of the deed or of the law relating to trusts.

Subsection (10) provides that an order made by the Department of Finance and Personnel under subsection (1) may also make consequential and supplementary provision, including amendments to legislation.

Subsection (11) provides that an order made by the Department of Finance and Personnel under subsection (1) is subject to the negative resolution.

Subsection (12) allows subsection (1) to be used to close to future accrual schemes made before or after section 31 comes into force.

Subsection (13) indicates that the provisions of Schedule 7, which provides for a “final salary link”, apply for the benefit of members of public body schemes restricted under this section.

Section 33: Existing public body pension schemes: pension age

This section allows an existing public body pension scheme to reform itself by including a provision that the normal pension age and deferred pension age of members of those schemes is to be the same as their state pension age (subsection (1)(a)). The link may only apply to benefits accrued under the scheme after the provision to establish that link took effect.

Subsection (1)(b) allows any changes to normal or deferred pension age that occur as a result of a change in state pension age to apply to the calculation and payment of all benefits earned in a scheme; including, as set out in subsection (2), benefits accrued after the creation of the link but before the relevant change in state pension age.

The effect of this section is to allow existing public body pension schemes to include a provision to link normal and deferred pension ages, so they change in line with any change to state pension age. If state pension age increases by one year, the normal and deferred pension ages would automatically increase by one year, and the increase would apply to all benefits earned in the scheme from the point at which the link to state pension age was created.