EXECUTIVE NOTE

THE TEACHERS' SUPERANNUATION (SCOTLAND) AMENDMENT (No. 2) REGULATIONS 2011

SSI 2011/52

The above instrument was made in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972. Functions under that Act as regards Scotland have been executively devolved to the Scottish Ministers. The instrument is subject to negative resolution procedure. The instrument extends only to Scotland.

This instrument amends the Teachers' Superannuation (Scotland) Regulations 2005 (SSI 2005/393). A consolidation of the 2005 Regulations is in progress and these consolidated Regulations will be made in 2011.

Background

In the 22 June 2010 UK Budget, the Chancellor announced that public service pensions would increase annually in line with the Consumer Prices Index (CPI) with effect from April 2011. This change will happen automatically to teachers' pensions in payment (including Additional Pension (AP)) and deferred pensions by virtue of their link to the provisions of the Pensions (Increase) Act 1971 and the annual HM Treasury Pensions Increase (Review) Orders made under that Act which are reserved to Westminster. No amendments to the 2005 regulations are therefore required in this respect.

Scheme members can elect to purchase AP in blocks of £250. The 2005 regulations do currently provide for AP purchased to be re-valued in line with monthly increases in the Retail Prices Index (RPI) before the AP comes into payment ("a pre-payment increase"). In line with the movement to index public sector pensions by CPI these regulations apply the new indexation for the re-valuation of additional pension contracts that begin from and including 1 April 2011. The indexation provided by the Pensions (Increase) Act will be applied to these contracts. However the instrument also provides that any elections taken out up to and including 31 March 2011 will continue to be re-valued by RPI.

Policy Objectives

Regulation 3 amends regulation E6A in relation to the re-valuation of additional pension where a member elects to take the AP at the same time as a phased retirement pension. The amendment make provision for AP purchased before 1 April 2011 to continue to be re-valued by the RPI and for AP purchased on or after 1 April 2011 to be re-valued in line with the indexation provided under the Pensions (Increase) Act 1971.

Regulation 4 amends regulation E7A in relation to the re-valuation of AP. The amendment makes provision for additional pension purchased before 1 April 2011 to continue to be re-valued by the RPI and for additional pension purchased on or after 1 April 2011 to be re-valued in line with the indexation provided under the Pensions (Increase) Act 1971.

Regulation 5 inserts a new definition in to Schedule 1 for "the Prices Index".

Regulation 6 amends Schedule 2A to provide for the maximum amount of AP that can be purchased to be up-rated in line with the rate set under the Pensions (Increase) Act 1971 from 1st April 2011.

The factors used to calculate the cost of AP will be reviewed by the Government Actuary's Department.

Sensitivity

The wider move from using RPI to CPI to revalue pension benefits is strongly opposed by stakeholders. This instrument amends the specific reference to the re-valuation of AP's in the regulations in line with the overall policy change on indexation. The instrument does though provide protection to retain re-valuation by RPI for those members who elect to purchase AP up to and including 31 March 2011.

Consultation

To comply with the requirements of section 9(5) of the Superannuation Act 1972 a consultation on the amendments made by this instrument took place from 26 November 2010 to 7 January 2011. Those consulted were all teachers' employers (including all 32 Scottish local authorities, Scottish Colleges and Independent Schools), teachers' trades unions and relevant Scottish and UK Government Departments. Consultation responses in respect of these changes have highlighted Trade Union opposition to the general policy to change indexing from RPI to CPI. This is because CPI is generally expected to be lower than RPI and therefore can be seen as a reduction in pension income over time.

Financial effects

A Business and Regulatory Impact Assessment (BRIA) has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

Contact

If you have any queries regarding this instrument, please contact Christine Marr at the Scottish Public Pensions Agency (Tel: 01896 893225 or email: christine.marr@scotland.gsi.gov.uk.

Scottish Public Pensions Agency
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