POLICY NOTE

THE TEACHERS' SUPERANNUATION (SCOTLAND) AMENDMENT REGULATIONS 2015

SSI 2015/98

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 procedure.

Policy Objectives

The purpose of this instrument is to provide for the introduction of same sex marriages in Scotland from 16 December 2014 and consequential changes arising from the introduction of the new Teachers Career Average Revalued Earnings (CARE) scheme as from 1 April 2015 (particularly covering transfers and abatement provisions in the Teachers' Superannuation (Scotland) Regulations 2005 ("the 2005 Regulations")).

Regulation 3 sets out amendments to reflect the introduction of same sex marriage in Scotland. For the purposes of the scheme same sex couples are treated the same as civil partners. This includes members who are not in a civil partnership but are treated as living together as civil partners. Provision is also made to maintain widow benefit entitlements for a male scheme member who acquires a new gender under the Gender Recognition Act 2004 and at the time of that member's death that member was married to a women in a marriage that existed before the scheme member changed their gender.

Regulation 4 amends employee contribution rates. The 2005 Regulations require members of the Scottish Teachers' Pension Scheme to pay contributions to the Scheme as a condition of membership. Following discussion within the Scottish Teachers Pension Scheme Negotiating Group (STPSNG) two options were consulted on and having considered the responses made Scottish Ministers determined that the rates to be applied are those set out in this instrument. STPSNG is a tripartite group through which the pension reforms were discussed and is made up of representatives of employees, employers and the Scottish Government. The rates will apply for the period 1 April 2015 to 31 March 2019 with annual indexation of the pay bands. The rates apply to members of both the existing and 2015 schemes. The current scheme valuation has provided an employer's contribution rate of 17.2%. This rate will be applied from 1 September 2015 through to 31 March 2019 - this is provided for in regulation 14.

Regulation 9 extends the timescales from 12 months to 24 for a member to make an application for an enhanced total incapacity ill- health pension This mirrors the similar provision in the 2015 CARE scheme Regulations and allows for slow to develop or hard to diagnose conditions.

Regulation 10 replaces and clarifies abatement of retirement pension in regulation E18 of the 2005 Regulations. This makes provision to include pension earned in the 2015 CARE scheme in the calculation used to determine whether any abatement of the final salary pension should be applied in a particular tax year following re-employment.

Regulation 13 substitutes the entirety of Part G – Transfer Values. As part of the negotiations for the 2015 public service pension reforms the rules of Public Sector Transfer Club have been reviewed by HM Treasury and the Cabinet Office (which maintains the memoranda for how the club arrangements will operate). The Club consists of a number of final salary occupational pension schemes that have agreed reciprocal transfer arrangements and offers those who move between Club schemes the opportunity to transfer pension benefits on special terms. The arrangements for Club transfers in the 2015 CARE scheme are based on the revised Club rules. An application for a Club transfer must still be made within 12 months of joining a new Club scheme, but from 1 April 2015 a Club transfer will not be possible where there has been a gap in service of more than 5 years between the member leaving the previous Club scheme and joining the new one. Members in that position will be able to pursue a transfer on non-club terms.

These time limits mean that it will not be possible to maintain the special arrangements which currently apply between existing teachers' pension schemes in Scotland, Northern Ireland, England and Wales (known as the Comparable United Kingdom Scheme (CUKS)). CUKS like Club transfers provide service on transfer on a day for day basis but there is no 12 month limit on applications being made on joining the scheme as a transfer can be requested up to normal pension age. Similar arrangements known as Comparable British Service (CBS) cover the teacher schemes in the Channel Islands and the Isle of Man. Those members who are currently able to request a CUKS or CBS transfer will be able to do so up to and including 31 March 2017 on the existing rules. Any election to transfer rights after 31 March 2017 will be subject to the new club rules and the 12 month time limit will then apply.

Overall, the new Club arrangements will allow teachers in the comparable scheme to transfer their benefits in line with other public service workers in a way that enables them to consolidate and protect their pension saving effectively, albeit in future they will have to make the application to do so within 12 months of joining the new scheme. It aims to maintain the current approach that members transferring service retain the value of the service already accrued in the transferring scheme. Extending the timescales to 31 March 2017 for CUKS and CBS transfers will ensure that those who have moved between the schemes and have not yet decided to transfer under these terms have additional time to do so.

Provision is also made within this amendment for the payment and acceptance of bulk transfer values. Regulations 5 to 8, 11, 12 and 17 add further clarity to the meaning in the transfer regulations.

Consultation

To comply with the requirements of section 9(5) of the Superannuation Act 1972 a formal consultation was undertaken from 27 November 2014 to 4 January 2015. Those consulted were all teachers' employers (including all 32 Scottish local authorities), Scottish Colleges and Higher Education establishments, Independent Schools, teachers' unions and relevant Scottish and UK Government Departments. As part of that consultation 11 comments were received. They key messages from these comments were that the Regulations were complex and general disagreement regarding the impact the pension reforms from April 2015 will have on retirement ages. A summary of the consultation responses will be made available on the Scottish Public Pensions Agency's website www.sppa.gov.uk.

Impact Assessments

An equality impact statement has been prepared for this policy and is due to be published shortly.

Financial Effects

No Business and Regulatory Impact Assessment has been prepared because no impact on the private or voluntary sector is foreseen.

Scottish Public Pensions Agency
An Agency of the Scottish Government
February 2015