

**EXPLANATORY MEMORANDUM TO
THE JUDICIAL PENSIONS (ADDITIONAL VOLUNTARY CONTRIBUTIONS)
(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2006**

2006 No. 126

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The main purpose of this Statutory Rule is to close the additional voluntary contributions (AVC) scheme that enables judicial office holders voluntarily to purchase additional pension benefits alongside those conferred by the pension schemes constituted by the Judicial Pensions (Northern Ireland) Act 1951, the County Courts Act (Northern Ireland) 1959 or the Resident Magistrates' Pensions Act (Northern Ireland) 1960. There is no requirement to make transitional provision that would allow existing members to continue to purchase additional benefits because no judicial officers under the relevant schemes contribute to this AVC scheme. In addition, the provisions enabling members of judicial pensions schemes to make free-standing additional voluntary contributions to pensions providers of their own choice, within HMRC limits, is revoked, as they are no longer necessary in the new pension tax regime.

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

3.1 None

4. Legislative Background

4.1 Occupational pension schemes are currently required to provide members with access to schemes in which they can make additional voluntary pension savings. This requirement is set out in section 111 of the Pension Schemes Act 1993 and is repealed with effect from 6 April 2006.

4.2 Part 4 of The Finance Act 2004 introduces a new tax regime for pension schemes with effect from 6 April 2006. The Act removes an existing restriction which prevents members of occupational pension schemes from concurrently contributing to certain other pension arrangements.

4.3 The judicial pension schemes constituted by the Judicial Pensions (Northern Ireland) Act 1951, the County Courts Act (Northern Ireland) 1959 and the Resident Magistrates' Pensions Act (Northern Ireland) 1960 are exempt from the provisions of section 111 of the Pension Schemes Act 1993. However the policy intention behind that section has been delivered under the Acts by the inclusion of provisions that contain powers for the establishment of such AVC schemes. The amendments being made by this Statutory Rule reduce the number of schemes available to judicial office holders to meet only the minimum requirements of these provisions.

4.4 This Statutory Rule is made in exercise of the powers conferred by section 11A of the Judicial Pensions (Northern Ireland) Act 1951, section 127A of the County Courts Act (Northern Ireland) 1959 and section 9A of the Resident Magistrates' Pensions Act (Northern Ireland) 1960. It revokes existing regulations made under these powers to establish an AVC scheme and the provisions governing free-standing additional voluntary contributions schemes for members of these judicial pension schemes. The Acts enable the Lord Chancellor with the consent of Her Majesty's Treasury, to make this Statutory Rule.

5. Extent

5.1 This instrument applies to Northern Ireland only.

6. European Convention on Human Rights

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

7. Policy background

7.1 From 6 April 2006, a new unified pensions tax regime will replace the numerous existing regimes. The new regime will contain two key controls on tax relief for pension savings, a lifetime allowance and an annual allowance, which will replace the plethora of controls currently in existence. One of the controls that is being removed is the restriction that currently prevents a member of an occupational pension scheme from concurrently contributing to certain other pension arrangements.

7.2 In view of the fact that the restriction on concurrent membership of pension schemes will no longer apply, the requirement for schemes to offer AVC schemes is repealed with effect from 6 April 2006.

7.3 Eligibility to make additional contributions under the judicial schemes is currently restricted by reference to a 'retained benefits test', which is a control mechanism of the current pension tax regime. Generally this control prevents members from purchasing pension benefits in the judicial AVC schemes when their pension benefits from all sources exceed or are likely to exceed specified limits. This control is being removed from the new tax regime and it is not possible satisfactorily to replicate it for the purposes of the judicial schemes. This is one of the main reasons for the closure of one of the current schemes, which permits members to purchase set amounts of guaranteed benefit.

7.4 Certain existing pension schemes will under the provisions of the Finance Act 2004 become what the Act terms 'registered pension schemes'. Separately the Finance Act 2004 also provides that the scheme administrators of existing pension schemes may choose that their schemes should not become 'registered pension schemes' for the purposes of that Act. The Lord Chancellor, as the scheme administrator of the judicial pension schemes, announced to Parliament (Hansard, 15 December, Column WS151) that he would exercise this option in respect of those schemes. This means that the schemes will no longer attract the preferential tax treatment afforded to 'registered pension schemes'.

7.5 The Department for Constitutional Affairs circulated its Statutory Instrument in draft form to representatives of the Scottish Executive, Northern Ireland Court Service, Her Majesty's Treasury, Her Majesty's Revenue and Customs and representatives of judicial office holders, including the Northern Ireland judiciary, and sought their views on its content. Their consultation was conducted between 16 February and 24 February 2006. Only minor technical amendments were sought and these have been made.

7.6 It is the policy of Northern Ireland Court Service to replicate in part, for Northern Ireland judicial pension schemes, the policy behind the Statutory Instrument prepared by the Department of Constitutional Affairs. The main difference concerns the Judicial AVC Scheme, known as JAVCS. The Department for Constitutional Affairs intends to retain its JAVCS, and is taking steps to ensure that the scheme complies with the new pensions taxation regime, as their scheme has existing contributors. Following consultation with the Northern Ireland judiciary, conducted between 15th February and 27th February 2006, the Northern Ireland Court Service has decided to defer making similar amendments to its Judicial AVC (JAVCS) Scheme, until such time as an eligible member applies to join the JAVCS scheme. The department has undertaken to make the amendments necessary to make JAVCS compliant with the new tax regime, should one of the office-holders apply to join the scheme.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this Rule as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

9. Contact

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