# EXECUTIVE NOTE

## THE TEACHERS' SUPERANNUATION (SCOTLAND) AMENDMENT REGULATIONS 2006 SSI/2006/308

The above instrument is made in exercise of the powers conferred by sections 9 and 12 of the Superannuation Act 1972. These powers have been transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750). The instrument is subject to negative resolution procedure.

**Policy Objectives**

This instrument makes amendments to the Teachers' Superannuation (Scotland) Regulations 2005 ("the 2005 Regulations") and the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995 ("the 1995 Regulations").

The amendments are made in response to the provisions of the Finance Act 2004 (c.12) and associated regulations, which introduce a radical new tax regime for tax-privileged pension savings which takes effect from 6 April 2006, known as 'A' day. A new simplified regime replaces the eight existing tax regimes that cover different types of pension schemes and pension saving arrangements.

The previous 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 pension 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.

The main mandatory requirements of the Finance Act 2004 necessitating the changes in this instrument are as follows:

- The requirement for all schemes to adopt a new minimum pension age of 55 by 6 April 2010 or earlier. The amendments introduce the new minimum pension age from 30 June 2006.

- The restriction of payments of children's pensions after age 23 except in limited circumstances.

- The limits on when a trivial pension can be commuted and paid as a lump sum will be increased to come into line with the overriding rules in force with effect from 6 April 2006.

Other changes are consequential on the rules brought in by the Finance Act 2004 – for example, reflecting changes in terminology.

For consistency with the ‘A day’ date for the coming into force of the changes in the Finance Act 2004, the mandatory changes in this instrument will have retrospective effect from 6 April 2006, as authorised by section 12 of the Superannuation Act 1972.

The amendments also introduce two permissive changes allowed under the Finance Act 2004, in relation to the scheme’s in-house Money Purchase Additional Voluntary Contributions (MPAVC) arrangements. These are to have effect from the date of coming into force of this instrument and are as follows:-

- Members of the scheme will be able to make STSS MPAVCs of up to 100% of their STSS salary, less contributions to other registered pension schemes including the STSS.

- On retirement, members will also be able to take up to 25% of their invested MPAVC funds, as a tax-free ‘pension commencement’ lump sum.

The amendments in the instrument should be read with the rules in the Finance Act 2004 and the related transitional regulations made under that Act. In particular, the Registered Pension Scheme (Modification of the Rules of Existing Schemes) Regulations 2006 (S.I. 2006/364) have permitted the continuation of an ‘earnings cap’ in the Superannuation Scheme Regulations (regulation 4 of S.I. 2006/364) and there are no amendments removing the relevant earnings cap from regulation C1(5) of the Teachers’ Superannuation (Scotland) Regulations 2005.

**Consultation**

The amendments made by this instrument have been the subject of consultation with local authorities and other employers of teachers and lecturers, with representatives of teachers, and with other Government Departments. Responses were supportive of the changes.

**Financial effects**

This Instrument has no impact on business, charities or voluntary bodies and no Regulatory Impact Assessment is required. A regulatory impact assessment in relation to the provisions to Part 4 of the Finance Act 2004 and subordinate legislation under it was published by the Board of Inland Revenue on 8th April 2004, and is available on the website of Her Majesty’s Revenue and Customs at http://www.hmrc.gov.uk/ria/simplifying-pensions.pdf.

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