EXECUTIVE NOTE

THE TEACHERS' SUPERANNUATION (SCOTLAND) AMENDMENT REGULATIONS 2007 SSI/2007/189

The above instrument is made in exercise of the powers conferred by sections 9, 12 and 24 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 (SI 1999/1750). The instrument is subject to negative resolution procedure.

Legislative background

In December 2002, the UK Government published a Green Paper entitled 'Simplicity, security and choice: Working and saving for retirement'; this contained proposals and recommendations to encourage people to work longer and save more for retirement. In June 2003, a follow-up Green Paper 'Working and saving for retirement – action on occupational pensions' contained a recommendation that all public service pension schemes should be reviewed. The UK Government was of the view that normal pension age should be increased, and schemes changed to reflect improved longevity and modern working patterns. Changes were particularly necessary for public service pension schemes to maintain financial sustainability in the longer term and to meet the needs of an increasingly diverse and modern workforce.

There are 3 teachers' pension schemes in the UK. As well as the Scottish Teachers' Superannuation Scheme (STSS), there is the Teachers Pension Scheme (England and Wales) and the Teachers Pension Scheme (Northern Ireland). A wide-ranging UK review of all 3 teachers' pension schemes started in November 2003, with the first consultation exercise on changes to the Scottish Teachers' Superannuation Scheme taking place between October 2004 and January 2005. Following the May 2005 UK General Election, and a series of discussions in the UK Public Services Forum, an agreement was reached on 18 October 2005 between Government and the Trades Union Congress (TUC) on the framework for reform of public service pension schemes for civil servants, teachers and health workers. The framework included that existing staff could have the right to retain their current normal pension ages, but new members, following implementation of the reforms would have a normal pension age of 65. In addition, the reforms were to provide for long-term sustainability of the schemes. This agreement enabled fresh negotiations to begin with teacher employer organisations and teacher unions. On 14 February 2007, after a second period of consultation, the Minister for Finance and Public Services Reform announced that the responses to this consultation had been largely supportive and that the reforms were to be taken forward from April 2007.

Policy Objectives

This instrument amends the Teachers' Superannuation (Scotland) Regulations 2005 ("the 2005 Regulations"), the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996 ("the 1996 Regulations") and the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995 ("the AVC Regulations").

The main changes to the scheme are as follows:-

Increase in Normal Pension Age (NPA) from 60 to 65 for new entrants: New entrants to teaching who join the STSS on or after 1 April 2007 will have a NPA 65 and an accrual rate of 1/60ths for pension purposes with no fixed lump sum. Existing members will retain the right to retire at age 60 however, any break of more than 5 years will result in a change in status unless they return to teaching for 60 days pensionable employment or 30 days reckonable service over a 12 month period within that 5 year period. Existing members will retain an accrual rate of 1/80ths and a lump sum of three times pension with the ability to commute pension for an additional lump sum to the permitted maximum.

Increase in Death-in-Service Grant: the lump sum payable on the death of a teacher who dies on or after 1 April 2007 whilst in pensionable employment is increased from two times pensionable salary to three times pensionable salary.

Additional Pension: A facility to purchase additional pension up to a maximum of £5000 will be available from 1 April 2007. This will replace the existing facility to purchase added years. The election to purchase additional pension can cover either personal benefits or personal and dependant benefits and can be purchased either by a single lump sum payment or by variable monthly deductions from salary. The period over which the monthly contributions can be made is limited to either 20 years or the teacher's NPA, whichever is sooner.

Pensions for unmarried partners: From 1 April 2007, teachers will be able to nominate their partners for a survivor's pension. The teacher and his or her partner must complete a joint declaration of partnership stating that: they are living together in an exclusive long-term relationship that has existed for at least two years, they are legally free to marry or would have been able to if the teacher and his or her partner had not been of the same sex, and the teacher's partner is financially dependent on the teacher or they are financially interdependent. The surviving nominated partner will be required to provide evidence at death that the prescribed conditions are met.

Phased retirement: From 1 April 2007 teachers will be able to drawdown up to 75% of their pension whilst continuing to work. To be eligible the teacher must reduce either hours worked or salary such that earnings are reduced by 25% for a 12 month period. Drawdown of pension benefits can be on two separate occasions before final retirement. Benefits taken before NPA will be subject to actuarial reduction and where that applies there will be no abatement of pension.

Commutation of pension for lump sum: From 1 April 2007 a teacher who retires will be able to commute up to maximum of 25% of their fund value into a lump sum by exchanging pension for lump sum. Each £1 of pension surrendered will purchase £12 worth of lump sum.

New two-tier ill-health retirement arrangements: Existing service enhancements for ill-health retirement will only be applied in respect of applications received before 1 April 2007. Applications received on or after 1 April 2007 will be assessed on a two-tier arrangement whereby a total incapacity benefit will be granted to those members whose ability to carry out any work is impaired by more than 90% and is likely permanently to be so. Total incapacity benefit would include a half prospective service enhancement to normal pension age. Partial incapacity benefit would be awarded for those teachers permanently incapable of teaching, but capable of a range of other types of work. Under partial incapacity benefit there is no service enhancement, but the teacher's pension would not be subject to the actuarial reduction normally applied to benefits because of early payment.

New calculation of pensionable salary: From 1 April 2007, a teacher's pensionable salary will be either the salary received for the 365 days prior to retirement or the average of the revalued best three consecutive years' salaries in the 10 years prior to retirement. The most beneficial pensionable salary will be used in the calculation of benefits. There will be a transitional period of two years from 1 April 2007 until 31 March 2009 and any teachers retiring during that period will have their pensionable salary compared with the existing method of the best consecutive 365 days pensionable salary during the three years prior to retirement and if this is more favourable it will be used in the calculation of benefits.

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. The main proposals in the package of reforms were subject to consultation between 3 October 2006 and 5 January 2007. The responses were largely supportive of the changes and a summary of the responses is available on the SPPA website (http://www.sppa.gov.uk/scot_teachers/documents/STSSConsultationSummary2007-introduction.pdf). A short technical consultation on the draft regulations was also carried out.

Financial effects

Although the proposals to change the STSS would impact on over 64,000 members, the Government Actuary's Department has estimated that the package of reforms should deliver over £0.4 billion in net savings over the long term, underpinning the future sustainability of the STSS. As such, a full RIA was deemed unnecessary.

The impact of combining scheme reforms and improvements with the retention of a normal pension age of 60 for existing members will require an increase of 0.2% in the contribution rate payable by all STSS members. In addition, to support the sustainability of the STSS –

(i) the member contribution rate will increase by a further 0.2% as the member's share of the future cost increases from the 2005 actuarial valuation of the STSS;

(ii) as was announced in STSS Circular 2006/6 in September 2006, the employer contribution rate will increase by 1%, following the 2001 scheme valuation, taking it to 13.5%;

(iii) future member contribution rates will be set as equal to the member rate applied at the equivalent scheme valuation in the Teachers' Pension Scheme (England and Wales). This rate will have been set following a process that leads to the sharing of most additional costs or savings between the member and employer contribution rates.

Taking the above facts into account, the employer contribution rate will rise from 12.5% to 13.5% in April 2007. It is expected to rise further, as a result of the 2005 scheme valuation, to around 14.25% in April 2008, but the final level will not be set until the results of the 2005 valuation are available later in 2007. The employee contribution rate will rise from 6.0% to 6.4% of pensionable pay with effect from 1 April 2007.

The expected further 0.75% increase in employer contributions in April 2008 amounts to approximately £14.5m pa to local authorities, £0.9m pa to independent schools and £2.6m to higher and further education authorities as employers of members of the STSS.

The link between the future Scottish member contribution rate and that set in the Teachers Pension Scheme (England and Wales) will be subject to review if the scheme valuations highlight difficulties relating to this mechanism or if the contribution rate identified in the scheme valuation in Scotland varies by more than one percent of pensionable pay from that in England and Wales following an equivalent scheme valuation. (In such cases, the Scottish Ministers may consider amending the regulations for setting contribution rates. Any such amendment would take place following consultation with stakeholders and teachers' representatives and with the consent of HM Treasury).

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