EXPLANATORY MEMORANDUM TO

The Teachers' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015

[SR 2015 No.]

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Education to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under the Public Service Pensions Act (Northern Ireland) 2014 and is subject to the draft affirmative resolution procedure.

2. Purpose

2.1. The purpose of these Regulations is to make consequential provision in relation to public service pensions for teachers as defined in paragraph 4 of Schedule 1 to the Public Services Pensions Act(Northern Ireland)(c.2 (N.I) " the 2014 act.

2.2. Under the 2014 Act, certain current members of public service pension schemes are to join new pension schemes ("new schemes") as active members, whilst retaining certain benefits in their existing pension schemes ("old schemes").

2.3. Part 2 modifies the effect of provisions relating to contracting-out of the additional state pension. It disapplies the requirement in the Pension Schemes (Northern Ireland) Act 1993 (c.49) ("the 1993 Act") for contracting-out certificates in relation to members joining or transferring to a new scheme from 1st April 2015. Procedural requirements in the Occupational Pension Schemes (Contracting Out) Regulations (Northern Ireland) 1996 (SR 1996 No.493) are disapplied to an election to contract-out the new scheme, as long as the new scheme meets certain requirements in the 1993 Act.

2.4. Part 3 modifies the effect of other provisions of the 1993 Act, in their application to persons who join the new scheme whilst still being non-accruing members of the old scheme. Those members are to be treated as if they are in continuing pensionable service under one scheme, not two. Section 11A of the 1993 Act is modified in relation to pension debits. Part 4 of the 1993 Act concerns members of occupational pension schemes who leave before retirement age. The non-accruing members of the old scheme are to be treated as if their old scheme service does not terminate, nor their contracted-out employment cease, when they join the new scheme; only when they leave the new scheme. The modifications apply for the purposes of preserved benefit (Chapter 1 of Part 4); revaluing benefits (Chapter 2); protecting increases in guaranteed minimum pensions (Chapter 3); and cash equivalent values and contribution refunds (Chapters 4 and 5). Specified provisions in the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (SR 1996 No. 619)

which were made under Chapter 4 of Part 4 of the 1993 Act, are also modified for transition members.

2.5. Part 4 modifies the effect of the pensions tax regime contained in the Finance Act 2004 (c. 12) upon the ill-health pension provision in the new scheme. It provides that any element of an ill-health pension relating to pensionable service for the old scheme will not fall to be calculated against the member's annual tax allowance, and that any pension in the old scheme that subsequently falls to be paid to a member who has taken ill-health retirement will not fall to be calculated against the member's lifetime tax allowance.

2.6. Part 5 provides that where a deferred member takes pension benefits before normal pension age, no account is to be taken of the standard reduction, applied to the benefits of active members taking pension benefits before the normal pension age, for the purpose of the short service benefit provisions contained in of the 1993 Act (Chapter 1 of Part 4).

3. Background

3.1. The Public Service Pensions Act (Northern Ireland) 2014 was passed by the NI Assembly and received Royal Assent on 11 March 2014. The Act provides the legislative framework for public service pension schemes in NI (including NITPS) to be reformed in line with core provisions including arrangements for the winding-up of existing public service pension schemes.

3.2. By means of these draft regulations the Department intends to make consequential modifications to primary legislation which are necessary to ensure the new 2015 career average pension scheme operates as intended in terms of its interaction with the wider framework of pensions and tax legislation.

4. Consultation

4.1. The Department consulted extensively on all aspects of pension reform with key stakeholders through the Teachers' Superannuation Consultative Committee (TSCC) prior to, during and following the formal consultation process. TSCC is the established forum for consultation on matters relating to the NITPS and comprises representatives from teachers' unions and employers.

4.2. A specific consultation on these the draft regulations was published on the Department of Education website on 30 October. The Department notified bodies in the education sector (including schools and nurseries and colleges of further and higher education), other stakeholders, and other interested parties. In addition, school teachers on the substitute teachers register were emailed and a note was included in teachers' pay slips. Responses could be returned by email or by post.

4.3. The closing date of the consultation was 27 November 2014. Consultation has taken place with the teacher unions through the Teachers' Superannuation Consultative Committee, which is the established forum for consultation on matters relating to the NITPS, both prior to and during the formal consultation period.

4.4. A total of 4 responses were received. These were from trade unions, another NI Government Department and the Government Actuary Department. .

5. Equality Impact

5.1. An Equality Impact Assessment (EQIA) was carried out for the Pension Reform policy for NITPS as a whole, and this has been published on the Department's website. This legislation has no impact on the outcome of the EQIA.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been carried out for these Regulations as they have no impact on businesses, charities, social economy enterprises or voluntary bodies.

7. Financial Implications

7.1. In isolation this piece of legislation has no financial implications, however HM Treasury has made it clear that failure to implement the required pension reforms by 1 April 2015 would have a detrimental financial impact for Northern Ireland funding, with a cost to the education budget estimated at £60m a year i.e. £5m per month from 1 April 2015.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Departmental Solicitor's Office has confirmed that the regulations comply with Section 24 of the Northern Ireland Act 1998 which requires that they are compatible with the rights in the European Convention for the Protection of Human Rights and Fundmental Freedoms.

9. EU Implications

9.1. None.

10. Parity or Replicatory Measure

10.1. Regulations implementing similar consequential amendments are being pursued by the Teachers' Pension Schemes in Scotland and in England and Wales.

11. Additional Information

11.1. Not applicable.