EXPLANATORY MEMORANDUM TO

THE POLICE PENSIONS (REMEDIABLE SERVICE) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2024

2024 SR No. 138

Matters of special interest to the Examiner of Statutory Rules

These Regulations address omissions and minor errors to the Police Pensions (Remediable Service) Regulations (Northern Ireland) 2023 in response to those identified in the equivalent Regulations in England and Wales (the Police Pensions (Remediable Service) Regulations 2023) by the Forty-Ninth Report of the Joint Committee on Statutory Instruments ("JCSI").

1. Introduction

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

1.2 The Statutory Rule is made under sections 1(1) and (2)(g), 2(1) (together with paragraph 7 of Schedule 2) and 3(1), (2)(a) (together with paragraph 13 of Schedule 3) and (c) and (3) of the Public Service Pensions Act (Northern Ireland) 2014[1] ("the 2014 Act") and sections 5(1) and (5), 6(1), 7(3), 10(1), 11(5), 18(2), (3), (5) and (6), 19(1), (4) and (5), 21, 22(1) and (6), 24(1), 26(1) and (2), of the Public Service Pensions and Judicial Offices Act 2022 ("PSPJOA 2022")[2].

1.3 To the extent required by section 27 of PSPJOA 2022, these Regulations are made in accordance with Treasury directions under that section[3].

1.4 This rule is subject to the negative resolution procedure in the Assembly and will have retrospective effect from 1 October 2023.

2. Purpose of the Instrument

2.1 The purpose of these Regulations is to further support the Scheme Manager and Pension Administrator to effectively deliver the McCloud retrospective remedy. These provisions include-

---

[1] 2014 c. 2 (N.I.). Section 3(1) was amended by section 94(12) of the Public Service Pensions and Judicial Offices Act 2022, and section 3(2)(c) was inserted by section 94(13) of that Act.

[2] 2022 c. 7.

[3] See section 38 of PSPJOA 2022 for the meaning of "Treasury directions", which includes directions given by the Department of Finance. The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions (Northern Ireland) 2023 were published on 26 January 2023 and are accessible online at https://www.financeni.gov.uk/publications/directions-made-under-public-service-pensions-and-judicial-offices-act-2022.

a) A new clause, unique to the police pension schemes[4], relating to a contingent decision on the provision for transfers in from non-club organisations during the remedy period (1 April 2015 to 31 March 2022) for legacy (1988/2006) scheme members, subject to certain conditions.
b) A clause that instructs the Scheme Manager to determine the remediable value of the ill-health benefits in the alternative scheme.
c) Following the identification of minor corrections in the Police Pensions (Remediable Service) Regulations 2023 in England and Wales by the Forty-Ninth Report of the JCSI similar typographical corrections are being applied to the equivalent Police Pensions (Remediable Service) Regulations (Northern Ireland) 2023 ("2023 Regulations").

3. Policy Background

3.1 The Police Pensions (Remediable Service) Regulations (Northern Ireland) 2023 implement the provisions of the Public Service Pensions and Judicial Offices Act 2022 ("PSPJOA 2022"). This Statutory Rule corrects omissions and minor errors in those Regulations, which were not picked up before laying and some of which were identified by the JCSI. As the police pension schemes are locally administered, the minor errors need to be corrected so that the 2023 Regulations can be interpreted correctly and more smoothly by the scheme administrators.

3.2 The omissions relate to circumstances peculiar to each of the police pension schemes that do not occur in most other public service schemes and so were not captured in the exemplar regulations that were produced to apply to multiple public service schemes at that time of drafting. These unique circumstances also apply to a very limited cohort of legacy (1988/2006) scheme members.

3.3. These regulations remedy an omission on contingent decisions for a transfer-in. Under the PSPJOA 2022, eligible scheme members are permitted to seek correction for decisions under the scheme that might have been made differently had the member been in the alternative scheme at the time. The 2023 Regulations require an addition to allow members who have certain transfers in, that could have happened (in the remedy period) but for the discrimination, to have a contingent decision to rectify this.

3.4 These regulations also remedy an omission to instruct the Scheme Manager to determine the remediable value of the ill-health benefits in the alternative scheme so that the member may be placed into a position they would have been had the discrimination not occurred.

4. Consultation

4.1 In accordance with section 21 of the 2014 Act, the Department of Justice has consulted the representatives of such persons as appear to the Department likely to be affected by these Regulations and include the Police Federation for Northern Ireland,

[4] The relevant police pension schemes are those established under the Royal Ulster Constabulary Pensions Regulations 1988 (S.R. 1988 no. 374) and the Police Pension (Northern Ireland) Regulations 2009 (S.R. 2009 No. 79).

the Chief Police Officers Staff Association, the Superintendents Association for Northern Ireland, the Northern Ireland Policing Board, the Northern Ireland Retired Police Officers Association, the Chief Constable of the Police Service of Northern Ireland, the Northern Ireland Scheme Advisory Board and the Police Advisory Board for England and Wales.

4.2 In accordance with section 3(5) of the 2014 Act, the Department of Finance[5] has consented to the making of these Regulations.

4.3 The draft regulations were issued for consultation from 19 March 2024 to 16 May 2024. After consideration of the responses, a Departmental Consultation Response was published on the 30 May 2024.

4.4. The Justice Committee considered the SL1 and agreed to the making of these Regulations on 13 June 2024.

5. Equality Impact

5.1. Consideration has been given to compliance with section 75 of the Northern Ireland Act 1988 and no significant implications for equality issues have been identified by the Department.

6. Regulatory Impact

6.1 The Department does not consider that there is a need for a regulatory impact assessment for this instrument as it has no impact on businesses, charities, or voluntary bodies.

7. Financial Implications

7.1 There are no financial implications associated with these Regulations. These regulations are technical measures to support the delivery of the McCloud Remedy for the police pension schemes.

8. Section 24 of the Northern Ireland Act 1998

8.1 The proposed Rules are considered compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measures

10.1 Similar regulatory measures were introduced by Home Office for the equivalent police pension schemes in England and Wales on 18 January 2024.

[5] Departments Act (Northern Ireland) 2016 c.5 (N.I). Section 1(4) renamed as the Department of Finance and Personnel as the Department of Finance.

11. Additional Information

11.1 These regulations are made to support the McCloud remedy by providing the police pension scheme with the appropriate legislative provision to make retrospective changes to eligible member benefits.