EXPLANATORY MEMORANDUM TO

THE PUBLIC SERVICE PENSIONS (EMPLOYER COST CAP AND SPECIFIED RESTRICTED SCHEME) REGULATIONS (NORTHERN IRELAND) 2022

2022 No. 204

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Finance to accompany the above named Regulations laid before the Northern Ireland Assembly.

2. Purpose

2.1 These Regulations widen the public service pension schemes' cost control mechanism's cost corridor from +/-2% to +/-3% of pensionable pay. This increases the amount by which a scheme's cost must diverge from the employer cost cap before triggering a breach of the mechanism. The change will take effect from the 2020 valuations.

2.2 These Regulations also specify the NI Judicial Pension Scheme 2015 (NIJPS 2015) as a restricted scheme for the purpose of section 12A of the Public Service Pensions Act (Northern Ireland) 2014, thereby removing the requirement that it operates the cost control mechanism and undergoes valuations that are separate from those of the scheme that has now replaced it.

3. Background

Cost Corridor

3.1 The cost control mechanism for public service pension schemes is designed to ensure a fair balance of risk with regard to the cost of public service defined benefit pension schemes between members of those schemes and the Exchequer (and, by extension, taxpayers). It was introduced following the recommendations of the Independent Public Service Pensions Commission (IPSPC) in 2011. The cost cap mechanism as introduced in 2015 is designed to operate symmetrically and so also maintains the value of pensions to members when costs fall. The operation of the cost control mechanism is provided for by section 12 of the Public Service Pensions Act (Northern Ireland) 2014 (PSPA(NI) 2014). Cost control policy for the schemes established under PSPA(NI) 2014 reflects that of the Treasury for equivalent schemes in GB established under comparable primary legislation.

3.2 For each public service pension scheme, the cost control mechanism assesses certain elements of scheme costs and if they have decreased/increased by more than a certain percentage of pensionable pay compared to their base level ('the employer cost cap'), then member benefits that accrue may be increased/reduced to bring costs back to that base level (or alternatively contribution rates are adjusted). So, there is effectively a corridor either side of a target cost with limits representing the 'ceiling' and 'floor' – otherwise known as the 'upper margin' and 'lower margin' respectively. When those margins are breached, member benefits (or contribution rates) must be adjusted to bring costs back to target.

3.3 The Westminster Government asked the Government Actuary to review the cost control mechanism in 2018 amidst concerns that the mechanism was too volatile and not operating in line with its objectives. The review commenced in 2020 and a final report was published in June 2021.[1] It contained 3 recommendations to improve the mechanism. Following a policy consultation the Treasury published its response in October 2021.[2] It proposed to proceed with all three proposals.

3.4 One of those proposals was the widening of the cost corridor from +/-2% to +/-3% of pensionable pay, and these regulations implement that change for NI schemes. This is intended to make the mechanism more stable; operate in line with its original objectives, and provide greater certainty for members regarding their future contribution rates and projected retirement incomes.

NI Judicial Pension Scheme 2015

3.5 The NIJPS 2015 was introduced alongside other reformed public service pension schemes, following recommendations from the IPSPC. The NIJPS 2015 replaced the existing provision made under the Judicial Pensions and Retirement Act 1993, except for those judges covered by transitional protection arrangements. The NIJPS 2015 was established under section 1 of PSPA (NI) 2014 and was therefore required to undergo actuarial valuations and operate the cost control mechanism in the same way as the other public service schemes subject to that Act.

3.6 The NIJPS 2015 was closed to future accrual on 31 March 2022 and from 1 April 2022 its members moved to the newly created Judicial Pension Scheme 2022 (JPS 2022) administered by the Ministry of Justice in GB.

[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/993416/Cost_Control_Mechanism_-_GA_Review_-_Final_Report_-_27_May_2021.pdf

[2] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1022938/CCM_RESPONSE.pdf

3.7 Schemes that are closed to future accrual do not require valuations separate from those of the schemes that will replace them. The costs associated with the closed NIJPS 2015 will be considered as part of the new JPS scheme's valuation and cost control process if, and to the extent that, it is appropriate to do so.

3.8 These Regulations complete a technical change to ensure that the now closed NIJPS 2015 will not be required to undergo the processes for valuations required in the PSPA(NI) 2014.

4. Consultation

4.1 The Treasury undertook a policy consultation during 2021 on proposed changes to the cost control mechanism, including on the proposed widening of the cost cap corridor.[3] NI stakeholders were invited to contribute to the policy consultation. A majority of respondents to the Treasury consultation, agreed with the principle of widening the cost corridor and thought +/-3% was an appropriate size.

4.2 In accordance with its obligations under section 12 of the Public Service Pensions Act (Northern Ireland) 2014, the Department of Finance has also undertaken consultation with employee representatives on these regulations at the Collective Consultation Working Group (CCWG). The CCWG is the recognised forum for engagement on public service pension policy change. It comprises representatives from Management Side and Trades Unions Side for the main public service schemes.

4.3 During an agreed 6 week consultation in July and August 2022 there were four responses to the consultation. The Department has prepared a response to the consultation which addresses the points raised and which has been published on the Department's website at: Department of Finance response to the consultation on The Public Service Pensions (Employer Cost Cap & Specified Restricted Scheme) Regulations (NI) 2022 | Department of Finance (finance-ni.gov.uk)

5. Position in Great Britain

5.1 An identical change has already been made in comparable regulations made by the Treasury on 3 August 2022 and which now apply for the equivalent public service schemes in GB.

6. Equality Impact

6.1 The Department undertook an equality screening exercise on the draft regulations which found no differential adverse impacts for s75 groups. A full EQIA is not considered necessary: The screening document is available at: https://www.finance-ni.gov.uk/publications/policy-screening-

[3] https://www.gov.uk/government/consultations/public-service-pensions-cost-control-mechanism-consultation

public-service-pensions-employer-cost-cap-and-specified-restricted-scheme

7. Regulatory Impact

7.1 The regulations imposes no costs on business, charities, social economy enterprises or the voluntary sector. A Regulatory Impact Assessment is not considered necessary.

8. Financial Implications

8.1 There are no direct financial implications for the Department of Finance. However it can be noted that cost control policy in the NI public service schemes reflects that of the Treasury for the equivalent, and broadly identical, schemes in GB. To diverge from that approach in these regulations could lead to fundamental differences in costs and benefits between the NI schemes and their counterparts in GB. Where this would result in more expensive or generous terms for NI scheme members, this could have potentially negative implications for central funding allocations.

9. Section 24 of the Northern Ireland Act

9.1 It is the view of the Department that the Statutory Rule is compatible with section 24 of the Northern Ireland Act 1998.

10. EU implications

10.1 Not applicable.