EXPLANATORY MEMORANDUM TO THE

TEACHERS' PENSIONS (AMENDMENT) REGULATIONS 2005

2005 No. 2198

1 This explanatory memorandum has been prepared by the Department of Education and Skills and is laid before Parliament by Command of Her Majesty.

2. **Description**

This instrument amends the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994, the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 and the Teachers' Pension Regulations 1997 to provide for survivor benefits to be payable to surviving civil partners and to enable Welbeck College, the Defence Sixth Form College, to be accepted as an employer by the Teachers' Pension Scheme ("the Scheme") when it becomes independent of the Ministry of Defence ("MoD").

3. **Matters of special interest to the Joint Committee on Statutory Instruments.**

None

4. **Legislative Background**

4.1 The Civil Partnership Act 2004 enables two persons of the same sex who register their partnership to become civil partners. Its main provisions are expected to be brought into force on 5 December 2005.

4.2 During second reading in the House of Commons, Mrs Anne McGuire, Parliamentary Under-Secretary of State for Scotland, announced that regulations would be made to allow civil partners to accrue survivor pensions in public sector pension schemes from 1988 (Hansard HC, 12 October 2004, col. 249-250). This instrument gives effect to that undertaking for the Scheme.

4.3 In addition, the Scheme is a contracted-out scheme within the meaning of the Pension Schemes Act 1993. The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050) has altered the conditions which a pension scheme must satisfy in order to remain contracted-out. The amendments made by this instrument take account of these changes.

5. **Extent**

This instrument applies to England and Wales.

6. **European Convention on Human Rights**

No statement is required.

7. Policy background

7.1 The amendments made by this instrument provide for death grants and pensions to be payable to surviving civil partners of Scheme members as they are currently paid to surviving spouses. Service from 6 April 1988 automatically counts for the purpose of calculating survivors' pension benefits. Civil partners have the option of paying for any service prior to 6 April 1988 to count for this purpose. In addition, the amendments made ensure that the Scheme will remain contracted-out.

7.2 Teachers employed by the MoD at Welbeck College, the Defence Sixth Form College, can currently elect to be in the Scheme. The amendment made by this instrument ensures that, when the College becomes independent of the MoD, it may be accepted as a Scheme employer so that teachers' pension arrangements will be unaffected.

7.3 A consultation exercise took place between 23 March and 4 July 2005 amongst 86 key stakeholder groups in England and Wales including trade unions and teacher employer organisations. A total of 19 comments were received. Nine offered no comment and there were five technical queries. Four respondents indicated positive support to the proposals. One registered discontent that the Government had not gone further in providing access to benefits for same sex couples whilst welcoming the amendments.

8. Impact

8.1 An assessment of the cost implications to public service pension schemes and of the impact on business, charities and the voluntary sector of the proposals in this instrument is included in the regulatory impact assessment that accompanied the Civil Partnership Act 2004. A copy of that assessment has been placed in the libraries of both Houses of Parliament and can be viewed at http://www.dti.gov.uk/access/ria/index.htm#equality.

8.2 There will be costs to the Government in public service pension schemes from extending survivor benefits to include civil partners. Depending upon the take-up rate of civil partnerships, the total annual cost to all public service pension schemes for providing survivor benefits to civil partners could amount to between £7m and £14m per year. There will also be a one off capital addition to outstanding liabilities of between £60m (low take up) and £125m (high take up) to provide survivor benefits on the basis of service from 1988 up to the introduction of civil partnership. It is estimated that the percentage increase in annual contributions would be between 0.008% and 0.016% depending on the take-up rate of civil partnership.

8.3 The Scheme costs have been estimated by reference to the estimated Scheme element of the total costs for all public service schemes. This produces an annual cost broadly between £1.5m (low take up) and £3.0m (high take up). The Scheme constitutes about 20% of the total liabilities of public service schemes, and so the one off additional impact in respect of backdating civil partners' service to 1988 could be of the order of £12m (low take up) to £25m

(high take up).

8.4 Some Scheme employers are businesses, charities or in the voluntary sector. Following a future Scheme revaluation, the contributions payable by such Scheme employers may increase as indicated above in paragraph 8.2.

9. Contact

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who can answer any queries regarding the instrument.