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DEPARTMENT OF EDUCATION

Consultation on NITPS Teachers' Superannuation (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2015

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May 2015

Introduction

The Teachers' Superannuation (Additional Voluntary Contributions) Regulations (NI) 1996 make arrangements to allow members of the NI Teachers' Pension Scheme (NITPS) to make additional pension savings in a defined contribution pension scheme that sits alongside, but is separate from, the NITPS. This consultation runs from **20 May 2015** to **17 June 2015**. It deals with the need to make amendments to those regulations to reflect changes in tax and pension law brought about by the budget in 2014.

Background

In the 2014 Budget, the Chancellor announced tax changes to private pensions, giving savers greater flexibility over how they access their money purchase pension pots. Many of the Budget reforms introducing the pensions flexibilities required substantive changes to tax legislation. The Pension Schemes Act 2015 contains a number of measures to ensure that the tax change flexibilities are reflected in pension law and to ensure appropriate safeguards are in place. Many of the measures which came into effect from 6 April 2015 to coincide with the tax changes were extended to NI by means of a Legislative Consent Motion.

The Department of Education is responsible for the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (NI) 1996 ("the 1996 Regulations") which now need to be amended to give legislative effect to the changes in tax and pension law.

Proposed Amendments

The proposed amendments ensure that all members of the NITPS are able to avail of the greater flexibility over how they access their money purchase pension pots announced in the 2014 Budget. The draft regulations (attached at **Annex 1**) amend the 1996 Regulations to permit members of the NI Teachers' Pension Scheme access to the additional voluntary contributions scheme ("the scheme"). They enable members to utilise the additional flexibilities for defined contribution pension schemes provided for in the Pension Schemes Act 2015 and takes account of changes to tax treatment of individuals' pension funds introduced by the Taxation of Pensions Act 2014. The proposed amendments will ensure that the regulations are clear, unambiguous and will allow NITPS members to enjoy the full range of choices now available to pension savers in defined contribution pension schemes. The regulations will allow members who contribute to the AVC arrangements a range of choices over how they access their AVC scheme savings.

Accordingly, the Department proposes to amend the 1996 regulations to:

- define a member's AVC normal pension age by reference to the member's normal pension age under the relevant NI Teachers' Superannuation Scheme principal regulations at the time the AVC election is made;
- allow any person in pensionable service to make an inward transfer of rights from a registered pension scheme or qualifying recognised overseas pension scheme (QROPS);
- permit any person to make an outward transfer of the value of some or all of their AVC investments to a registered pension scheme or QROPS;

- permit the payment of any AVC benefit from normal minimum pension age (currently age 55) and permit members to make benefits elections on more than one occasion;
- permit a member to request one or more uncrystallised fund pension lump sum payments (from 6 April 2015) and/or one or more annuities;
- permit payment to a member of one or more pension; commencement lump sums where permitted by Finance Act 2004;
- permit payment of a small pension lump sum under regulation 11, 11A or 12 of The Registered Pension Schemes (Authorised Payments) Regulations 2009; and
- permit payment, from 1 October 2015, of a short service refund where a person leaves pensionable service with qualifying service of less than 30 days. Before 1 October 2015 permit payment of a short service refund where a person receives a repayment of contributions under the principal regulations.

These regulations will introduce improvements, rather than any detriments, to members of the NITPS. It is therefore proposed that these regulations be retrospective i.e. with a coming into operation date of 6 April 2015 to ensure no member of NITPS is disadvantaged.

Equality

The need for a full Equality Impact Assessment has been screened out for this policy.

Responding to this consultation

The Department would welcome comments on the proposals and on the draft regulations.

Responses should be sent no later than **17 June 2015** to:

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 STATUTORY RULES OF NORTHERN IRELAND

2015 No. 000

EDUCATION

The Teachers' Superannuation (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2015

<i>Made</i>	- - - - -	2015
<i>Coming into operation</i>	-	2015

The Department of Education makes the following Regulations in exercise of the powers conferred by Articles 11(1)(1), (2), (2A) and (3) and (14)(1) of, and paragraphs 1, 3, 5, 6, 8, 10, 11 and 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(2) (the 1972 Order) and by sections 1(1) and (2)(d), and 3(1), (2), (3)(a) and (b) and (5) of, and paragraph 4 of Schedules 1 and 2 and Schedule 3 to the Public Service Pensions Act (Northern Ireland) 2014(3) (the 2014 Act).

In accordance with Article 11(5) of the 1972 Order and section 21(1) of the 2014 Act, the Department has consulted representatives of the local education authorities, teachers and other persons as appear to it likely to be affected.

In accordance with Article 11(1) of the 1972 Order, these Regulations are made with the consent of the Department of Finance and Personnel(4).

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

Citation, commencement and effect

1. These Regulations may be cited as the Teachers' Superannuation (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2015.

2. These Regulations shall come into operation on 2015 and shall have effect from 6th April 2015.

(1) As amended by S.I. 1990 No. 1509 (N.I. 13) Article 13(1)
 (2) S.I. 1972 No. 1073 (N.I. 10)
 (3) 2014 C.2 (N.I.)
 (4) Formerly Department of Finance: see S.I. 1982/338 (N.I. 6) Article 3

Amendment to the Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996

3. The Teachers' Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996(5) are amended as set out in regulations 4 to 16.

Amendments to regulation 2 (Interpretation)

4. In regulation 2(1)–

(a) after the definition of “authorised insurance company” insert—

““AVC policy age” means—

- (a) except in the circumstances mentioned in sub-paragraphs (b), (c), (d) or (e), a person (P)'s normal pension age on the date P makes an election under regulation 4;
- (b) if a transfer is made under regulation 10, a person (P)'s normal pension age at the date that written notice from P under regulation 10(1) is received by the Department;
- (c) in respect of a pension credit member, the pension debit member's normal pension age on the date that an election under regulation 4 is made by the pension debit member or notice from the pension debit member under regulation 10(1) is received by the Department;
- (d) if a contributor or participator (P) realises all of the funds invested on P's behalf under regulation 9(1) and 10(2) and makes a subsequent election under regulation 4, P's normal pension age at the date of the subsequent election;
- (e) if a person (P) is in pensionable service under the 1998 Regulations at the time of making an election under regulation 4, and has more than one normal pension age under regulation EA1 of those Regulations, P's normal pension age in relation to P's pensionable service on the date P makes the election;”;

(b) for the definition of “civil partner” substitute—

“is to be construed in accordance with section 1 of the Civil Partnership Act 2004(6);”;

(c) in the definition of “dependent”, for sub-paragraphs (a) to (c) substitute—

“(a) any surviving spouse or surviving civil partner;

(b) any person who is an eligible child as defined in regulation E22(5), (6) and (7) of the 1998 Regulations or regulation 137 of the 2014 Regulations;

(c) any person in respect of whom at the time of death of the participator or contributor a nomination under regulation E22A or E23 of the 1998 Regulations or regulation 135 or 136 of the 2014 Regulations has effect;

(d) any surviving adult as defined in regulation 134 of the 2014 Regulations;”;

(d) for the definition of “normal pension age” substitute—

“in the case of a person who, at the time of making an election under regulation 4, is in pensionable service under the 1998 Regulations is to be construed in accordance with the 1998 Regulations, and in the case of a person who, at the time of making an election under regulation 4, was in pensionable service under the 2014 Regulations is to be construed in accordance with the 2014 Regulations;”;

(e) in the definition of “participator”—

(5) S.R. 1996 No. 260 as amended by S.R. 2001 No. 149, S.I. 2001 No. 3649, S.R. 2003 No. 86, S.R. 2005 No. 495, S.R. 2006 No. 163, S.R. 2006 No. 366, S.R. 2007 No. 137, S.R. 2008 No. 50 and S.I. 2013 No. 472

(6) 2004 c. 33; section 1 was amended by the Marriage (Same Sex) Couples) Act 2013 (c.30, Schedule 7, Part 2, paragraphs 33 and 34(a) and(b))

- “(i)at the end of sub-paragraph (a) insert “in respect of all investments made under regulation 9(1) and 10(2) and has not made a further election under regulation 4 in respect of further pensionable service”
- (ii)at the end of sub-paragraph (c) insert “and who is not otherwise a contributor”;
- (f) after the definition of “participator” insert—
- ““pension commencement lump sum” is to be construed in accordance with Part 1 of Schedule 29 to the 2004 Act;”;
- (g) after the definition of “pension sharing order” insert—
- ““pensionable service” is to be construed in accordance with section 34 of the Public Service Pensions Act (Northern Ireland) 2014(7);
- (h) omit the definition of “Principal Regulations”;
- (i) after the definition of “pensionable service” insert—
- ““qualifying recognised overseas pension scheme” is to be construed in accordance with section 169 of the 2004 Act;”;
- (j) omit the definition of “reckonable service);
- (k) in the definition of “salary”, for sub-paragraphs (a) and (b) substitute—
- “(a) where a person is in pensionable service under the 1998 Regulations at the time the contribution is paid, the salary calculated in accordance with regulation C1 of the 1998 regulations;
- (b) where a person is in pensionable service under the 1998 Regulations at the time the contribution is paid in relation to contributions payable under regulation C7 of the 1998 Regulations the salary determined in accordance with the provisions of those Regulations for the purposes of calculating those contributions;
- (c) where a person is in pensionable service under the 2014 Regulations at the time the contribution is paid, in relation to pensionable earnings under Chapter 4 of Part 3 of the 2014 Regulations, the earnings determined in accordance with the provisions of that Chapter;”;
- (l) omit the definition of “the 1977 Regulations”;
- (m) after the definition of “the 2004 Act” insert—
- ““the 1998 Regulations” means the Teachers’ Superannuation Regulations (Northern Ireland) 1998(8);”;
- (n) after the definition of “the 1998 Regulations” insert—
- ““the 2014 Regulations” means the Teachers’ Pension Scheme Regulations (Northern Ireland) 2014(9);”
- (o) after the definition of “the 2014 Regulations” insert—
- ““uncrystallised fund pension lump sum” is to be construed in accordance with section 166 of the 2004 Act.”.

(7) 2014 c.2 (N.I)

(8) S.R. 1998 No. 333, as amended by S.R. 2001 No. 149, S.R. 2003 No. 147, S.R. 2005 No. 181, S.R. 2005 No. 495, S.R. 2006 No. 163, S.R. 2006 No. 366, S.R. 2007 No. 137, S.R. 2008 No. 50, S.R. 2010 No. 137, S.R. 2012 No. 126, S.R. 2013 No. 54, S.R. 2014 No. 37, S.R. 2014 No. 70, S.R. 2015 No. 69, S.R. 2015 No. 126 and S.R. 2015 No. 146

(9) S.R. 2014 No. 310 as amended by S.R. 2015 No. 126 and S.R. 2015. No. 146

Amendment to regulation 3 (Making and acceptance of elections)

5. In regulation 3, after paragraph (3) insert—

“(4) The date of an election under these Regulations shall be the date on which written notice is received by the Department.”.

Amendments to regulation 4 (Election to pay regular and lump sum contributions)

6. In regulation 4(1), for “reckonable service” substitute “pensionable service”.

Amendments to regulation 5 (Provision for lump sum death benefit)

7. In regulation 5—

- (a) in paragraph (2), for “a pension policy” substitute “an annuity policy”;
- (b) for paragraph (4) substitute—

“(4) A person (P) who has continued to pay regular contributions up to P’s AVC policy age, but does not then cease to be in pensionable service, may elect to pay regular contributions up to P’s first birthday after P reached AVC policy age to provide for a lump sum death benefit unless the authorised provider determines that provision under this regulation shall continue without the need for the authorised provider to verify P’s entitlement to that provision; and, so long as P has not ceased to be in pensionable service, further elections may be made annually in respect of years commencing on P’s first birthday after P reached AVC policy age and subsequent birthdays.”;

- (c) for paragraph (5) substitute—

“(5) An election made by P under paragraph (4) lapses if P retires, ceases to be in pensionable service during the year in question or ceases to pay contributions pursuant to an election under regulation 4(1).”.

Amendment to regulation 6 (Variation and cancellation of elections)

8. In regulation 6(3)(a) omit “subject to regulation 8(3)”.

Amendments to regulation 7 (Contributor)

9. In regulation 7—

- (a) for paragraph (2) substitute—

“(2) Before 6th April 2015, a person ceases to be a contributor if that person—

- (a) has become entitled to retirement benefits under regulation E4 to the 1998 Regulations;
- (b) has, under regulation 6(1)(d) or 6(3)(c), cancelled the election to pay regular contributions; or
- (c) subject to paragraph (3), has ceased to be in pensionable service and is not paying contributions under regulation C7 of the 1998 Regulations or regulation 26 of the 2014 Regulations.

(2A) On and from 6th April 2015 onwards, a person (P) ceases to be a contributor if P—

- (a) has realised all of the funds invested on P’s behalf under regulations 9(1) and 10(2) and has not made a subsequent election under regulation 4 in respect of further pensionable service;

- (b) has, under regulation 6(1)(d) or 6(3)(c), cancelled the election to pay regular contributions; or
 - (c) subject to paragraph (3), has ceased to be in pensionable service and is not paying contributions under regulation C7 of the 1998 Regulations or regulation 26 of the 2014 Regulations.”;
- (b) in paragraph (3), for “reckonable service” in each place where those words apply substitute “pensionable service”.

Amendments to regulation 10 (Inward transfers)

10. In regulation 10—

- (a) for paragraph (1) substitute—

“(1) Where a person in pensionable service (P) has been a member of a registered pension scheme or a qualifying recognised overseas pension scheme, P, whether or not P becomes a contributor (within the meaning of these Regulations), may give written notice to the Department that P wishes the Department to accept from the trustees or manager of that scheme a value of the transfer from that scheme.”;

- (b) in paragraph (2), for “wishes of the person entering employment in reckonable service” substitute “election made under regulation 4(1)”.
- (c) after paragraph (2) insert—

“(3) A person who has given written notice under paragraph (1) may at any time by giving written notice to the Department require the Department to realise any investment and to re-invest the proceeds under paragraph (2) in a different way.”.

Amendment to regulation 11 (Outward transfers)

11. In regulation 11—

- (a) in paragraph (1)—

- (i) omit “who has ceased to be a contributor by virtue of regulation 7(2)(b) or (c)”;
- (ii) before “the value of investments” insert “some or all of”;
- (iii) after “registered pension scheme” insert “or a qualifying recognised overseas pension scheme”;

- (b) for paragraph (2), substitute —

“(2) A transfer value shall not be paid pursuant to paragraph (1) in respect of investments which are subject to written notice under regulation 12(5).”.

Amendments to regulation 12 (Retirement and dependents’ benefits)

12. In regulation 12—

- (a) for paragraphs (1) and (1A), substitute—

“(1) In this regulation “the relevant date”, in relation to a contributor or participator, means—

- (a) in the case of a person who applies for benefits in pensionable service under the 1998 Regulations, the date the person attains the age of 55;
- (b) in the case of a person who applies for benefits in pensionable service under the 2014 Regulations, the date the person attains normal minimum pension age as defined in regulation 3 of the 2014 Regulations;

unless the circumstance in regulation 12(10) occurs before that date.

(1A) The benefits that may be provided at any time after the relevant date in accordance with paragraph (7) are—

- (a) one or more retirement pensions;
 - (b) one or more dependants' pensions;
 - (c) one or more pension commencement lump sums;
 - (d) on and from 6th April 2015 onwards, one or more uncrystallised fund pension lump sums.”;
- (b) in paragraph (2), after “is payable to the” insert “contributor or”;
- (c) in paragraph (3)—
- (i) for “his retirement” substitute “payment of benefits has commenced as provided in paragraph (1A)”;
 - (ii) for “who is a child” substitute “who is an eligible child as defined in regulation E22(5)(6) and (7) of the 1998 Regulations or regulation 137 of the 2014 Regulations”;
- (d) in paragraph (5)—
- (i) for “A participator may” substitute “A contributor or participator may in respect of some or all of the investments made under regulation 9(1) or 10(2)”;
 - (ii) in sub-paragraph (a) for “a” substitute “any”;
 - (iii) after sub-paragraph (f) add—
“and (g) whether an uncrystallised fund pension lump sum is to be paid and, if so, the amount of such payment.”;
- (e) in paragraph (6), for “the period of 5 years” substitute “a period specified in the notice, of a duration permitted by Schedule 28 to the 2004 Act”;
- (f) in paragraph (7)—
- (i) before “the investments” insert “some or all of”;
 - (ii) after “regulation 9(1) or 10(2) and” insert “either”;
 - (iii) for sub-paragraph (a) substitute—
“(a)(i)out of the amount obtained make any payment of a pension commencement lump sum in accordance with the election; and
(ii) apply the balance of the amount obtained to the purchase of a pension policy from an authorised provider chosen by the contributor or participator to provide the benefits specified in the election; or”;
 - (iv) for sub-paragraph (b) substitute—
“(b) pay an uncrystallised fund pension lump sum;”;
- (g) omit paragraph (8);
- (h) for paragraph (9) substitute—
“(9) The remaining investments shall be realised and become payable as a lump sum if the participator dies—
- (a) before the relevant date; or
 - (b) after the relevant date and before all the investments made under regulation 9(1) and 10(2) have been realised in accordance with one or more elections under paragraph (5) or applications under regulation 11(1).”;

- (i) in paragraph (11), for “a trivial commutation lump sum as defined in paragraph 7 of Schedule 29 to the 2004 Act” substitute “a small pension lump sum as defined in regulations 11, 11A and 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009⁽¹⁰⁾”.

Amendments to regulation 13A (Pension sharing on divorce or annulment)

13. In regulation 13A—

- (a) in paragraph (2), for “regulation 10(4)” substitute “regulation 10”;
- (b) for paragraphs (3) and (4) substitute—
 - “(3) The benefits that may be provided to the pension credit member are—
 - (i) one or more pension policies purchased as described in regulation 12(7) as modified in relation to this regulation for the purpose of providing a retirement pension or one or more dependant’s pensions;
 - (ii) one or more pension commencement lump sums;
 - (iii) one or more uncrystallised fund pension lump sums.
 - (4) The benefits mentioned in paragraph (3) shall commence no earlier than the date the pension credit member attains normal minimum pension age as defined in regulation 3 of the 2014 Regulations and in the case of benefits under sub-paragraph (3)(i) are payable for life.”;
- (c) in paragraph (5) for “a child” in both places where the words occur substitute “an eligible child”;
- (d) in paragraph (5), after “the 1998 Regulations” insert “or the 2014 Regulations”;
- (e) omit sub-paragraph (7)(b).

Amendments to regulation 15 (Repayment of investments in certain cases)

14. For regulation 15(1) substitute—

- “(1) The Department shall make arrangements for a person to receive a lump sum representing the total realisable value of the investments made by the Department in respect of that person under regulation 9(1) or 10(2) where the person—
 - (a) before 1st October 2015, ceases to be in pensionable service and has applied for and received a repayment of contributions under regulation C9 of the 1998 Regulations or regulation 189 of the 2014 Regulations;
 - (b) on and from 1st October 2015 onwards, ceases to be in pensionable service and has a period of qualifying service which is less than 30 days.”.

Amendments to regulation 16 (Payment by the Department)

15. In regulation 16—

- (a) in paragraphs (1) and (2), for “pension policy” and “policy” in each place where those words occur substitute “annuity policy”;
- (b) in paragraph (2) omit “12(8) or”;
- (c) in paragraph (2B)—
 - (i) before “lump sum” insert “pension commencement”;
 - (ii) after “regulation 12(1A)” insert “or 13A(3)(ii)”;

⁽¹⁰⁾ S.I. 2009 No. 1171; regulation 11 was amended by S.I. 2011 No. 1751 and the Finance Act 2014 (c.26) section 42(6)(a) and (c); regulation 11A was inserted by S.I. 2012 No. 522 and amended by the Finance Act 2014, section 42(6)(a) and (d); regulation 12 was amended by S.I. 2011 No. 1751 and the Finance Act 2014, section 42(6)(a) and (e)

- (d) in paragraph (2D)—
- (i) after “regulation 12” insert “or 13A”;
 - (ii) before “lump sum” insert “pension commencement”.

Amendment to regulation 20 (Retrospective effect)

16. In regulation 20(1), for “reckonable service” substitute “pensionable service”.
Sealed with the Official Seal of the Department of Education on 2015

L.S.

A senior officer of the
Department of Education

The Department of Finance and Personnel consents to the foregoing Regulations.
Sealed with the Official Seal of the Department of Finance and Personnel on 2015

L.S.

A senior officer of the
Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Teachers’ Superannuation (Additional Voluntary Contributions) Regulations (Northern Ireland) 1996 (“the 1996 Regulations”) to permit members of the Teachers’ Pension Scheme 2015 access to the additional voluntary contributions scheme (“the scheme”), to enable members to utilise the additional flexibilities for defined contribution pension schemes provided for in the Pension Schemes Act 2015 and to take account of changes to tax treatment of individuals’ pension funds introduced by the Taxation of Pensions Act 2014.

The Regulations have retrospective effect from 6 April 2015 by virtue of Article 14(1) of the Superannuation (Northern Ireland) Order 1972 and Section 3(3)(b) of the Public Service Pensions Act (Northern Ireland) 2014.

Regulation 4 makes amendments to the interpretation provisions of the 1996 Regulations and inserts a number of new definitions. In particular it provides a definition of “AVC policy age” to fix a person’s normal pension age as at the date of an election under regulation 4 or notice under regulation 10 of the 1996 Regulations.

Regulation 5 inserts new provision as to the date that an election under the 1996 Regulations is deemed to be made.

Regulation 7 amends regulation 5 of the 1996 Regulations to allow life cover to continue after a person reaches AVC policy age and makes other, minor amendments.

Regulation 9 amends regulation 7 of the 1996 Regulations to make new provision for a person to cease to be a contributor to the scheme from 6th April 2015, and updates the existing provision for a person so to cease prior to 6th April 2015.

Regulations 10 and 11 amend regulations 10 and 11 of the 1996 Regulations to broaden the circumstances in which transfers of funds into and out of the scheme may be made, in particular by permitting transfers from and into a qualifying recognised overseas pension scheme.

Regulation 12 makes a number of amendments to regulation 12 of the 1996 Regulations. In particular it permits from 6th April 2015 the purchase of one or more uncrystallised fund pension lump sums from realised funds, and the crystallisation of funds to purchase any of the benefits permitted by the regulation.

Regulation 13 makes a number of amendments to regulation 13A of the 1996 Regulations, in particular by broadening the range of benefits which can be purchased under the regulation.

Regulation 14 amends regulation 15 of the 1996 regulations, in particular to introduce, from 1st October 2015, a requirement that a repayment of contributions by the Department to a person who ceases to be in pensionable service under that regulation may only be made if the person has less than 30 days' qualifying service.

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations. The instrument has a minimal impact on the public sector.