Education, Children and Young People Committee
Wednesday 12 June 2024
19th Meeting, 2024 (Session 6)

Note by the Clerk on The Teachers' Pension Scheme (Scotland) Amendment Regulations 2024 (SSI 2024/147)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 28 June 2024. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

2. More information about the instrument is summarised below:

   Title of instrument: The Teachers' Pension Scheme (Scotland) Amendment Regulations 2024 (SSI 2024/147)

   Laid under: Public Service Pensions Act 2013

   Laid on: 20 May 2024

   Procedure: Negative

   Deadline for committee consideration: 24 June 2024

   Deadline for Chamber consideration: 28 June 2024

   Commencement: 29 June 2024

Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.

4. Once laid, the instrument is referred to:

   - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and

   - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).

6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The DPLR Committee considered the instrument on 28 May 2024 and reported on it in its 39th Report 2024. The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

8. The purpose of this instrument is to make changes to the Teachers' Pension Scheme (Scotland) (No. 2) Regulations 2014 to amend the employer contribution rate from 1 April 2024.

9. The Policy Note accompanying the instrument is included in **Annexe A**. It includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

Committee consideration

10. So far, no motion recommending annulment has been lodged.

11. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:

    - seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or

    - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

    It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.

12. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).

13. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

Clerks to the Committee
June 2024

Annexe A: Scottish Government Policy Note

THE TEACHERS' PENSION SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2024

SSI 2024/147

The above instrument was made in exercise of the powers conferred by sections 1(1) and 3 of, and paragraph 4(b) of schedule 2 of, the Public Service Pensions Act 2013. The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is to make changes to the Teachers' Pension Scheme (Scotland) (No. 2) Regulations 2014 to amend the employer contribution rate from 1 April 2024. The instrument also makes changes to the employee contributions table which updates the employee contribution percentages and salary/earnings bands on which they are set from 1 April 2024.

Policy Objectives

The purpose of this instrument is to update and amend The Teachers' Pension Scheme (Scotland) Regulation (no.2) 2014.

One of the aims of this instrument is to introduce the revised employer contribution rate which will increase from 23% to 26% from 1 April 2024. Reserved Primary legislation and HM Treasury Directions set out the process for assessing the employer contribution rate for the Scottish Teachers' Pension Scheme in Scotland and the date it should be applied from.

The other main aim is to make changes to the member contribution structure from 1 April 2024. Member contributions are set on a tiered basis according to the level of members' pay. Member contributions in totality are required by HM Treasury to deliver a yield of 9.6% of total pensionable pay. The existing contribution structure had begun to underperform against the target yield and requires to be amended to ensure the yield is met.

Finally, the instrument will make changes to the annual uprating of contribution tiers so that they are increased in line with the Consumer Prices Index (CPI) and only the bottom three salary rate bands in the member contribution structure will be increased annually. This ensures that members in the bottom tiers are not pushed into a higher contribution tier as a result of a pay award and also ensures that the target contribution yield continues to be met through freezing the top three tiers.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

To comply with the requirements of section 21(1) of the Public Service Pensions Act 2013 a formal policy consultation took place from 22 December 2023 to 16 February 2024. In particular, representatives of Teachers' employers and employees in Scotland, other Scottish Government interests and UK Government departments were consulted. Consultation responses were submitted to SPPA from scheme members, trade unions and an employer association.

As a result of that consultation the following points were made:

Increase to the employer contribution rate from 1 April 2024

A number of respondents raised concerns about the increased costs for scheme employers who are not centrally funded or who might not receive full funding to cover the increase in the employer rate.

The principal reason for employer contributions increasing is the UK Government's decision to reduce the SCAPE discount rate used in the valuation process. The Chief Secretary to the Treasury's statement announcing the change in the discount rate, confirmed that the UK Government will provide funding for increases in employer contribution rates resulting from the 2020 valuations because of changes to the SCAPE discount rate. For the STPS valuation the full 3% increase is a consequence of these SCAPE discount rate changes.

The UK Government's funding commitment is for employers whose employment costs are centrally funded through departmental expenditure. The UK Government has confirmed that, for devolved administrations, the Barnett formula will apply. Therefore, Scottish Ministers will make decisions on funding allocations once Barnett consequential amounts are confirmed.

In line with the outcome of the 2020 scheme valuation process, the Scottish Government are required to increase the employer contribution rate from its current rate of 23.0% to 26.0% effective from 1 April 2024.

Changes to the member contribution structure

The majority of respondents to the consultation were in favour of the new proposed tiered member contribution structure. There was widespread support for the principle of protecting lower paid teachers and respondents highlighted that a move away from a tiered structure could result in financial hardship for those on lower salaries and in turn potentially increase the number of teachers opting out of the Scottish Teachers' Pension Scheme.

However, other respondents highlighted that a flat rate of contributions would be more appropriate, on the basis that lower paid teachers already benefit from lower tax deductions and in a CARE scheme the benefits accrued are proportionate to earnings, so the contributions should be the same for all members.

The Scottish Government remains committed to a tiered structure in the STPS which is a mutual scheme for all teachers. A tiered structure provides protection for those on lower incomes and aims to maximise participation across the membership.

Therefore, a structure which involves minimal change and spreads the required increases equally across the membership is preferred.

Changes to the annual uprating of contribution tiers

The majority of respondents to the consultation supported the proposal to uprate the contribution tier thresholds annually in line with CPI. However, a number objected because they felt that increasing in line with pay awards for teachers was a fairer approach and they were concerned that increasing by CPI may lead to shortfall in the member contribution yield in future.

However, the Scottish Government are of the view that an increase based on CPI would provide more certainty to members as the applicable percentage increase would be known in advance. Also, any reduction in the yield as a result of using CPI would be off set by using a higher multiplier to increase contribution rates and by freezing the top two contribution tiers in the amended structure.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the SPPA website, it includes the Educational Institute of Scottland, the Association of Headteachers and Deputes in Scotland, the National Association of Schoolmasters Union of Women Teachers and the University and College Union Scotland

Impact Assessments

An equality impact statement in respect of The Teachers' Pension Scheme (Scotland) Amendment Regulations 2024 was prepared and was included with the consultation response document, available on the [1]SPPA website.

Financial Effects

The Minister for Public Finance confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as changes to employee contributions has no significant financial effects on the Scottish Government, local government or on business. The increase in the employer contribution rate is as a result of HMT Directions used in the scheme valuation which are mandated in UK Government legislation Therefore a BRIA is not necessary to assess the financial effects of the increase, the impact of which will not be known until consequential funding is confirmed by the UK Government.

Scottish Public Pensions Agency, An Agency of the Scottish Government May 2024

[1] https://pensions.gov.scot/teachers/scheme-governance-and-legislation/consultations