

The Teachers' Pension Scheme (Scotland) (Amendment) Regulations 2022 Scottish Government consultation 2021

The EIS is disappointed that legislation to implement the remedy is being consulted on in 2 stages as this allows for greater uncertainty for those impacted by this change in legislation particularly those who intend to retire in the 2022/23 year. The EIS would also wish that our original response to the government consultation and the letter from the Pension Scheme Advisory Board are also considered in our response to this consultation.

8. Consultation Questions

8.1 Question 1 - Do you think the draft Regulations adequately ensure that the legacy pension schemes are closed to future accrual on 31 March 2022 and that all active pension scheme members are moved to the 2015 pension scheme from 1 April 2022? Do you think there are any errors or omissions in the draft in achieving this aim?

The EIS does not see anything in the draft regulations that would prevent this aim being achieved.

8.2 Question 2 - Do you have any views on the proposed treatment of pension scheme members who have applied for ill health retirement before 31 March 2022 but who don't retire until on or after 1 April 2022? In particular, does this proposal in your view, ensure that these members are treated no less favourably than if the application was determined on 31 March 2022?

The draft legislation sets out protection for members who apply for ill health retirement prior to 31 March 2022, for clarity it would be helpful to see worked examples for members who could be impacted by this change. There are also unanswered questions. For example, do these regulations also apply to members who are in the process of an appeal or are reflecting on a decision and are considering the appeal process? Do these regulations apply equally to members who remain in employment and those who have left employment or had their contract ended by their previous employer?

8.3 Question 3 - Do you have any views on the proposed treatment of additional contributions arrangements? In particular, do you agree that existing provisions in the regulations allow for arrangements on additional pension and added service entered into under the existing schemes to continue after 31st March 2022?

We agree that existing contracts should be honoured and that these and any new additional pension contracts that commence prior to 31 March 2022 should be considered under the deferred choice underpin arrangements to be consulted on in stage 2.

8.4 Question 4 - Do the prospective Regulations in this consultation have an impact on people with protected characteristics, beyond those equality considerations undertaken and set out in the equalities impact analysis undertaken alongside this consultation and in support of the PSPJO Bill. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Specifically, do you think that the draft regulation amendments and policy intent described above will have any positive or negative impacts on people with protected characteristics, beyond those already considered? If so, which why/why not?

None are immediately apparent, subject to the clarification on ill health retirements in question 2.

8.5 Question 5 - Are there any other areas that you think should be addressed in these regulations to ensure all members are moved to the 2015 Scheme and the differential treatment as identified by the Court of Appeal is ended? - None.