

EXPLANATORY MEMORANDUM

THE OCCUPATIONAL PENSION SCHEMES (FRAUD COMPENSATION PAYMENTS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010

S.R. 2010 No. 106

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Article 170(8) of the Pensions (Northern Ireland) Order 2005 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations amend the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005 to prescribe how the Board of the Pension Protection Fund (“the Board”) is to determine the amount of any fraud compensation transfer payments from the Fraud Compensation Fund to the Pension Protection Fund.

3. Background

- 3.1 The Pensions Act 2004 set up, on a United Kingdom-wide basis, the Pension Protection Fund to provide compensation for members of eligible occupational pension schemes, where the sponsoring employer is insolvent and the scheme has insufficient assets to pay benefits at the Fund compensation levels. The Pension Protection Fund is funded through an annual levy charged to all qualifying defined benefit occupational pension schemes.
- 3.2 Since 1st September 2005, fraud compensation payments have been a matter for the Board. Payments are made from the Fraud Compensation Fund, a statutory fund managed by the Board, and paid for by a levy on all occupational pension schemes. Article 170 of the Pensions (Northern Ireland) Order 2005 provides a power for the Board to make transfer payments from the Fraud Compensation Fund to the Pension Protection Fund.
- 3.3 The intention behind Article 170 is that the Board will be able to consider fraud compensation transfer payments to the Pension Protection Fund where due to fraudulent or dishonest activity—
 - there has been a reduction in a scheme’s assets before a notice of transfer into the Fund was received by the trustees or managers and

where no application has been made for fraud compensation payments prior to the Board assuming responsibility for the scheme; or

- an application had been made and withdrawn before the Board determined whether or not fraud compensation payments should be made.

3.4 In these circumstances the Board can make a transfer payment from the Fraud Compensation Fund to the Pension Protection Fund to compensate the Pension Protection Fund for the loss of assets and to make fraud compensation payments if it was discovered after transfer that a scheme's assets had been reduced by fraud. The Board must determine the amount of any fraud compensation transfer payment in accordance with regulations.

4. Consultation

4.1 There is no requirement to consult on these Regulations as they are made within 6 months of the coming into operation of the provision of the Pensions (Northern Ireland) Order 2005 under which they are made.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these Regulations. As the Regulations make only technical amendments, and are of interest to only a small number of stakeholders, they would have little implication for any of the section 75 categories. In light of this, the Department has concluded that the Regulations would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

6.1 The Regulations do not require a Regulatory Impact Assessment as they have no, or only negligible, impact on costs on business, charities or voluntary bodies.

7. Financial Implications

7.1 None for the Department.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations—

- (a) are not incompatible with any of the Convention rights,
- (b) are not incompatible with Community law,

(c) do not discriminate against a person or class of person on the ground of religious belief or political opinion, and

(d) do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The corresponding Great Britain Regulations are the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) (Amendment) Regulations 2010 (S.I. 2010/483) which come into force on 6th April 2010. Parity of timing and substance is an integral part of the maintenance of single systems of social security, child support and pensions provided for in section 87 of the Northern Ireland Act 1998.