EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL PENSION SCHEMES (LEVY CEILING) ORDER (NORTHERN IRELAND) 2011

S.R. 2011 No. 122

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 Rule is made under Articles 161 and 287(3) of the Pensions (Northern Ireland) Order 2005 and is subject to negative resolution procedure before the Assembly.

2. Purpose

2.1 This Order specifies the amount of the levy ceiling for the financial year beginning on 1st April 2011.

3. Background

3.1 The Pensions Act 2004 set up the Pension Protection Fund, on a United Kingdom-wide basis, 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 compensation is funded through annual pension protection levies imposed by the Pension Protection Fund and charged to all qualifying defined benefit occupational pension schemes.

3.2 The levy ceiling is a control mechanism which ensures the amount raised through the pension protection levies by the Pension Protection Fund does not exceed a prescribed maximum. The amount of the levy ceiling is normally increased in April of each year by a percentage rate equal to the percentage increase in the general level of earnings since the end of the period of their last review. The levy ceiling uprates in line with earnings as this is the closest approximation to the increase in a scheme's liabilities where compensation is linked to a member's earnings. During the latest review period (1st August 2009 – 31st July 2010) the general level of earnings increased by 2·4%.

3.3 Whenever the Secretary of State for Work and Pensions makes a levy ceiling order under section 178(1) of the Pensions Act 2004, the Department is empowered to make a corresponding order. The Department has no power to set different amounts for Northern Ireland.

4. Consultation

4.1 There is no requirement to consult on this Order.

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 the legislative proposals for this Order and, as they merely discharge the Department's statutory duty to specify revaluation percentages and do not alter policy, has concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

6.1 This Order does not require a Regulatory Impact Assessment as it has only a 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 this Order—

(a) is not incompatible with any of the Convention rights,

(b) is not incompatible with Community law,

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

(d) does 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 Order is the Occupational Pension Schemes (Levy Ceiling) Order 2011 (S.I. 2011/841) which comes into force on 31st March 2011. 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.

11. Additional Information

11.1 Not applicable.

12. 21 Day Rule

12.1 The Great Britain Instrument was made on 17th March 2011. The Rule was made as soon as possible the next day, 18th March 2011. Owing to parity considerations it is vital that the Rule comes into operation on the same date as the Great Britain Instrument, in this instance 1st April 2011.