EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES (MISCELLANEOUS AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 2011

S.R. 2011 No. 89

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 sections 24(2)(b), 69(4)(b), 97D(4)(b), 109(1), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993 and Articles 171(4), 236(1), 237(1) and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005 and is subject to the negative resolution procedure.

2. Purpose

2.1 These Regulations make a number of technical and minor amendments to a number of sets of Regulations relating to occupational and personal pensions. In summary, the Regulations –

- set out the actuarial certificate to be issued when certain persons transfer from one occupational pension scheme to another (consequential on the replacement of guidance produced by the Board for Actuarial Standards);

- remove a small burden on employers in relation to multi-employer schemes;

- increase the fraud compensation levy limit to be paid by trustees or managers of occupational pension schemes from 23 pence to 75 pence per scheme member;

- update a reference to the Pensions Advisory Service.

3. Background

3.1 Actuarial certificate
When a bulk transfer of accrued rights, protected rights or pension credit rights is made from an occupational pension scheme to another occupational pension scheme, the actuary is required to certify that the persons' rights in the receiving scheme are broadly no less favourable than the rights being transferred. The actuarial certificate for this purpose was previously set out in a guidance note (GN16) produced by the Board for Actuarial Standards. As GN16 has been

replaced with principles-based guidance, the form of the certificate and the conditions that apply are set out in the Regulations.

3.2 Multi-employer schemes change notification

Regulations require large employers (with 50 or more employees) to consult affected members about a proposed significant change (known as a "listed change") to their pension scheme for at least 60 days before implementing the change. Where, in a multi-employer pension scheme, one of the employers proposes certain changes to work-based pension arrangements there is a requirement to notify the other employers in the scheme of the proposed change.

3.3 These Regulations provide that an employer is to be exempt from the requirement to notify the other employers in the multi-employer scheme where the only affected members work for that employer. This removes a small burden from the employer in these circumstances.

3.4 Increase in fraud compensation levy

The Fraud Compensation Fund is managed by the Board of the Pension Protection Fund. For the purposes of meeting expenditure payable out of the Fraud Compensation Fund, trustees or managers of occupational pension schemes are liable to pay a fraud compensation levy in respect of each financial year. These Regulations increase the fraud compensation levy limit from 23 pence to 75 pence per scheme member to allow the Board to continue to manage the Fund effectively. The 75 pence figure is the maximum allowable and it is envisaged that the Board will set a considerably lower level of levy.

4. Consultation

4.1 There is no requirement to consult on these Regulations as they make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain.

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 these Regulations. As the amendments are technical and minor, the proposals would have little implication for any of the section 75 categories. In light of this, the Department has concluded that the proposals would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

6.1 These Regulations do not require a Regulatory Impact Assessment as they have 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 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 and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2011 (S.I. 2011/672) which come 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.