EXPLANATORY MEMORANDUM TO

THE PENSION PROTECTION FUND AND OCCUPATIONAL AND PERSONAL PENSION SCHEMES (MISCELLANEOUS AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 2013

S.R. 2013 No. 95

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 142(4) and (6)(b) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993, Articles 75A(1) to (4) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995, Articles 127(3) to (5), 127A(5), 154(2), 185(1)(a), 189(1) and (5)(a), 280(3) and 287(2) and (3) of, and paragraphs 23(1)(b) and (2), 24(1) and (2), 25(1), 25A(1), 26(9) and 31(2)(a) of Schedule 6 to, the Pensions (Northern Ireland) Order 2005 and sections 94(8)(b), 97 and 113(2) of, and paragraphs 9(2), 16A(1) and 19 of Schedule 4 to, the Pensions (No. 2) Act (Northern Ireland) 2008 and is subject to the negative procedure.

2. Purpose

2.1 These Regulations make technical amendments to a number of sets of existing Pension Protection Fund Regulations to:

- allow all categories of pension credit members to have the option of taking their pension compensation early;

- allow all members not in receipt of pension compensation or the relevant pension to postpone taking their compensation;

- clarify the existing legislation, for example, the reference to the market rate in calculating the value of protected liabilities;

- align the time for making an application for a review of decision with that applicable for most other reviewable matters;

- allow the Pension Protection Fund in certain circumstances to discharge money purchase benefits to members aged 60 and over by a lump sum where those benefits are worth £2,000 or less; and

- make changes consequential on the Pensions Act (Northern Ireland) 2012.

2.2 The Regulations also make a number of technical, minor or consequential amendments relating to occupational and personal pension schemes.

3. Background

3.1 Taking pension compensation early

Existing legislation allows Pension Protection Fund members to take their pension compensation early, subject to meeting certain criteria, with the exception of some pension credit members (these are beneficiaries of pension sharing orders). Pension sharing orders are used to share pension rights on divorce, annulment or dissolution. The Regulations allow these pension credit members to access their pension compensation early. This change gives members more flexibility over when to take their pension compensation and the same option as other members.

3.2 Taking pension compensation late

The Pensions Act (Northern Ireland) 2012 gives members of the Pension Protection Fund the option of postponing the payment of their pension compensation past their normal pension age (or normal benefit age), subject to prescribed circumstances and conditions. The Regulations set out the circumstances and conditions that need to be met to enable members to postpone payment. Effectively, where a member is not currently in receipt of their pension compensation they will have the option of postponing it. This gives members more flexibility over when to take their compensation to suit their individual needs.

3.3 Surviving dependants

The Regulations allow other evidence to be produced to confirm that a child is the natural child of the deceased member as, for example, a birth certificate is not always available.

3.4 Reference to market rate

The Regulations amend the reference to the market rate in calculating the value of protected liabilities, to make it clear that the cost of the annuity should be at the estimated best value rate that is available in the market, given the circumstances and timing. The Regulations also clarify how the assets of a scheme are to be valued for Pension Protection Fund entry purposes, as well as making provision for the valuation of schemes that reapply for Pension Protection Fund entry.

3.5 Time for making an application for a review

The Regulations change the time within which an eligible person can make an application for an internal review of a decision made by the Board of the Pension Protection Fund in respect of a determination or valuation, from 2 months to 28 days. This change aligns the time for requesting an internal review with the time applicable for most other reviewable matters. It will also reduce (by one month) the time it takes to transfer the majority of schemes and members into the Fund and help to reduce scheme costs.

3.6 Discharging small money purchase sums

The Regulations allow the Board of the Pension Protection Fund to discharge its liabilities in respect of money purchase benefits worth £2,000 or less to members aged 60 and over, in certain circumstances, by paying these as a lump sum. This lump sum will extinguish these members' money purchase entitlements and will have the same tax efficient status as trivial commutation and winding-up lump sums. The aim is to relieve, to some extent, the problems members and the Fund experience with discharging such benefits, and means that members get more from these small pots.

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 Proposals for the Pensions (No. 2) Act (Northern Ireland) 2008 and the Pensions Act (Northern Ireland) 2012 were subject to full Equality Impact Assessments. 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 in nature, 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 Regulatory Impact Assessments were carried out on the proposals for the Pensions (No. 2) Act (Northern Ireland) 2008 and the Pensions Act (Northern Ireland) 2012. These Regulations do not require a Regulatory Impact Assessment as they have no 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 Pension Protection Fund, Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/627) which come into force on 30th April 2013. 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.