

EXPLANATORY MEMORANDUM TO

**THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES
(AUTOMATIC ENROLMENT) (AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2015**

S.R. 2015 No. 310

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 3(5), 4(1) to (3), 5(2), 9(3), 10, 23A(1)(a) and (b), (2) and (4)(b), 25, 30(7A), 69A(1), (3) and (4) and 113(2) of the Pensions (No. 2) Act (Northern Ireland) 2008 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations make technical amendments to the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 (“the Automatic Enrolment Regulations”) in consequence of the Pensions Act (Northern Ireland) 2015 to create exceptions to the automatic enrolment employer duties in certain circumstances and introduce alternative quality requirements for defined benefit schemes. They also introduce easements to allow employers to streamline the information they are required to provide to their workers.

3. Background

- 3.1 The Pensions (No. 2) Act (Northern Ireland) 2008 (“the (No. 2) Act”) and corresponding provision in the Westminster Pensions Act 2008 introduced a duty on employers to enrol eligible jobholders into a qualifying workplace pension and to make minimum contributions into it. Under the legislation, employers are able to choose the qualifying workplace pension scheme they adopt to discharge this duty. A qualifying scheme is a scheme which meets specific criteria, for example, an occupational pension scheme (including the National Employment Savings Trust (NEST) established on a UK-wide basis under the Pensions Act 2008) or a workplace personal pension scheme.
- 3.2 In recognition that there are people for whom pension saving is either not suitable or where the automatic enrolment requirement is disproportionate, section 37 of the Pensions Act (Northern Ireland) 2015 introduces a discretion to enable employers to choose whether or not to automatically enrol jobholders in certain circumstances. It inserts section 69A into the (No. 2) Act to allow for exceptions to the employer duties so that in prescribed situations an individual may not be automatically enrolled into a pension scheme.

3.3 Section 38 of the Pensions Act (Northern Ireland) 2015 inserts section 23A into the (No. 2) Act which provides powers to introduce alternative quality requirements for defined benefits schemes. It allows for alternative prescribed tests to demonstrate that a defined benefit scheme is good enough to be used to meet the employer duty.

3.4 These Regulations introduce further exceptions to the employer duties and modify relevant sections of the (No. 2) Act so as to provide that –

- where notice of termination of employment has been given, the employer duty to automatically enrol or re-enrol is turned into a discretion and the entitlement of a jobholder or worker to opt in to or join a scheme does not apply. Where it is agreed between the jobholder or worker and employer that notice is withdrawn, the duties are imposed from the date of that agreement;
- the employer duty to automatically enrol or re-enrol a worker or jobholder is turned into a discretion where a worker or jobholder has decided, in the last 12 months, to leave a qualifying scheme; where a jobholder benefits from certain tax protection, and where a worker has received a winding-up lump sum in the last 12 months;
- where the employer exercises the power to make arrangements for the jobholder or worker to join a relevant scheme, the employer is treated as if they were discharging a duty.

3.5 These Regulations also –

- amend the period of time in which an employer must give relevant information about the jobholder to the trustees or managers of the occupational pension scheme or personal pension scheme from 1 month to 6 weeks;
- amend the requirements imposed on employers with regard to the provision of information to employees, with the aim of reducing the burden to give several different pieces of information to different kinds of workers at different times;
- introduce alternative quality requirements for UK defined benefits schemes under section 23A(1)(a) and (b) of the (No. 2) Act and make similar changes in respect of non-UK schemes to reflect the new requirements;
- make consequential amendments and revocations.

4. Consultation

4.1 There is no requirement to consult on these Regulations. 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 Act (Northern Ireland) 2015 were subject to a full Equality Impact Assessment. 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, they would have little implication for any of the section 75 categories. In light of this, the Department has concluded that they would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment was carried out on the proposals for the Pensions Act (Northern Ireland) 2015. The impact on costs on business, charities or voluntary bodies is positive. The impact on the public sector is negligible.

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 (Automatic Enrolment) (Amendment) Regulations 2015 (S.I. 2015/501) which came into force on 1st April 2015.