

EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES
(MODIFICATION OF SCHEMES AND MISCELLANEOUS AMENDMENTS)
REGULATIONS (NORTHERN IRELAND) 2016

S.R. 2016 No. 144

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 section 33(1) and (2) of the Pension Schemes (Northern Ireland) Act 1993, Article 68(2)(e) of the Pensions (Northern Ireland) Order 1995 and Article 236(1) of the Pensions (Northern Ireland) Order 2005 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations make technical provision to allow salary related occupational pension schemes to modify their scheme rules to provide for fixed rate revaluation of guaranteed minimum pension (GMP) from when pensionable service ends in consequence of the abolition of contracting-out when the new State Pension is introduced on 6th April 2016.

3. Background

- 3.1 The new State Pension, which will apply to people reaching pension age after 5th April 2016, provides for a new single tier pension replacing the current two-tier system of basic pension and additional pension. As it will no longer be possible to accrue rights to additional pension, the Pensions Act (Northern Ireland) 2015 abolishes the option of contracting out of the additional pension.
- 3.2 Where a person leaves contracted-out service, their GMP (which accrued between 1978 and 1997) is required to be revalued each year until they reach pension age. Trustees have the choice of two different methods of revaluing GMPs: fixed rate revaluation or revaluation by earnings. Whichever method a scheme chooses, it must be applied to all scheme members.
- 3.3 To address concerns that when contracting-out ends, fixed rate revaluation would be automatically triggered from 6th April 2016 simply because members will have left contracted out service (regardless of whether the earner remains in employment and stays a member of the scheme), the 2015 Act made provision which requires schemes from 6th April 2016 to choose whether to operate fixed rate revaluation (from when pensionable service ends) or to revalue by earnings in the final tax year of the earner's working life. Schemes will have to make this choice even if they

had previously chosen fixed rate as their preferred option. However, it has come to light that some scheme rules prevent schemes from making the necessary changes. As a result, the option to choose a fixed rate revaluation for such schemes falls away after 6th April 2016.

3.4 The Regulations provide for schemes to be able to modify their scheme rules in order to provide for fixed rate revaluation of members' GMP from when their member's pensionable service ends after 6th April 2016. Schemes may make retrospective changes to have effect from that date.

3.5 The Regulations also provide that where such a change is made consultation with members is not required.

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 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. They are technical and beneficial in nature and have little implication for any of the section 75 categories. 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. These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional cost 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 (Modification of Schemes – Miscellaneous Amendments) Regulations 2016 (S.I. 2016/231) which come into force on 6th April 2016. 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.