

**EXPLANATORY MEMORANDUM TO**  
**THE PENSION PROTECTION FUND (COMPENSATION) (AMENDMENT)**  
**REGULATIONS (NORTHERN IRELAND) 2018**

**S.R. 2018 No. 26**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Article 287(2) and (3) of, and paragraphs 23, 25(1), 25A(1) and 33(1) and (2) of Schedule 6 to, the Pensions (Northern Ireland) Order 2005 and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1 These Regulations make technical amendments to existing Regulations in relation to the compensation payable from the Pension Protection Fund to those with occupational pensions that are paid at an initial higher amount which later reduces, usually at state pension age (known as step-down pensions). A case in point would be a scheme which has a scheme pensionable age of 60 and pays a higher rate of pension between the scheme's pension age and state pension age. The Regulations provide for the level of compensation in respect of a step-down pension to take account of future reductions which would have occurred in the rate of the pension under the rules of the original scheme.

**3. Background**

- 3.1 The Pension Protection Fund (PPF), which operates UK wide, provides 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. Schedule 6 to the Pensions (Northern Ireland) Order 2005 sets out how the compensation payable by the Board of the PPF, when it assumes responsibility for a pension scheme, is determined. It includes the power to modify the provisions of that Schedule as they apply to certain schemes.
- 3.2 Generally, the rate of any periodic compensation (regular PPF compensation payments as opposed to, for example, lump sum payments) is based on the rate of pension a member was entitled to receive immediately before the day their scheme entered PPF assessment or, where the pension was not yet payable, what would have been the initial rate if the member had reached normal pension age. Thereafter, the compensation is usually payable at the same rate for life, subject to indexation where appropriate. This has led to an anomaly in the PPF treatment of step-down pensions in that members of such schemes can receive a substantial windfall as a result of their scheme entering the PPF.

- 3.3 These Regulations amend the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 which modify Schedule 6 to the Pensions (Northern Ireland) Order 2005 in its application to any scheme which enters an assessment period where under the scheme a member is receiving, or has accrued rights to, a step-down pension which is due to decrease on or after the assessment date. The amendments operate so that the PPF compensation payable in respect of step-down pensions reflects the reduction which would have taken place under the rules of the member's original scheme.
- 3.4 These Regulations also make consequential amendments in relation to the compensation cap, survivor benefits, early payment of compensation and postponement of compensation until after normal pension age.

### **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 they will help to ensure fairness of treatment in that members with benefits of equal value will receive similar levels of compensation and that members with step-down pensions do not receive a windfall due to their scheme entering the PPF, 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 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 Pension Protection Fund (Compensation) (Amendment) Regulations 2018 (S.I. 2018/95) which were made on 25th January 2018 to come into force on 24th February 2018. Parity of timing and substance is an integral part of the maintenance of single systems of social security, child support and pensions in line with section 87 of the Northern Ireland Act 1998. The Regulations are necessary to allow the PPF to continue to function UK-wide and to ensure parity of treatment between members. It was, therefore necessary to make the Regulations during the period of interregnum.