
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement certain requirements of Directive (EU) 2015/1794 (OJ No L 263, 8.10.2015, p 3) (“the Seafarers Directive”). The purpose of the Seafarers Directive is to place those employed at sea on an equal footing with land based employees and to remove unequal treatment across Member States.

These Regulations amend the Pension Schemes (Northern Ireland) Act 1993 (“the 1993 Act”), the Employment Rights (Northern Ireland) Order 1996 (“the 1996 Order) and the Information and Consultation of Employees Regulations (Northern Ireland) 2005 (“the 2005 Regulations”).

Part VII (Insolvency of employers) of the 1993 Act and Part XIV (Insolvency of employers) of the 1996 Order implement in Northern Ireland certain provisions of [Directive 2008/94/EC](#) of the European Parliament and of the Council (OJ No L 283, 28.10.2008, p 36) (“the 2008 Directive”). Article 1 of the Seafarers Directive amends the 2008 Directive by ensuring that seafarers employed as share fishermen are brought within the scope of the 2008 Directive.

Section 161(6) of the 1993 Act excludes employed share fishermen from the scope of Part VII, Chapter II (Payment by the Department of unpaid scheme contributions) and from section 153 (Power of Department to obtain information in connection with applications under s.120). In order to reflect the amendment in the 2008 Directive, regulation 2(2) amends section 161(6) of the 1993 Act by removing the exclusion of employed share fishermen from the provisions of Part VII, Chapter II and from section 153 (pursuant to section 153(5), section 153 is to be construed as if it were in Part VII, Chapter II).

Section 161(6) of the 1993 Act also excludes merchant seamen from the provisions of section 120 (Duty of Department to pay unpaid contributions to schemes) and section 121 (Certification of amounts payable under s. 120 by insolvency officers). Regulations 2(2) and 2(3) amend sections 161(6) and 161(7) of the 1993 Act in order to bring merchant seamen within the scope of sections 120 and 121, as provided for by the 2008 Directive.

Section 242(2) of the 1996 Order excludes share fishermen from the scope of a number of provisions, including Part XIV. In order to reflect the amendment in the 2008 Directive, regulation 3(4) amends article 242(2) of the 1996 Order by removing the exclusion relating to Part XIV in relation to employed share fishermen and amends section 242(4) of the 1996 Order in order to bring merchant seamen within the scope of Part XIV, as provided for by the 2008 Directive.

Part XIII (Procedure for handling redundancies) of the 1996 Order implements in Northern Ireland the provisions of [Directive 1998/59/EC](#) of the Council of the European Union (OJ No L 225, 12.08.1998, p 16) (“the 1998 Directive”). Article 4 of the Seafarers Directive amends Article 1(2) (c) of the 1998 Directive by removing the derogation for the crews of seagoing vessels. Merchant seamen are within the scope of Part XIII of the 1996 Order but the amendment also brings employed share fishermen within the scope of Part XIII.

Article 4 of the Seafarers Directive also amends the 1998 Directive by inserting in Article 3(1) an obligation on an employer to notify the competent authority of a seagoing vessel’s flag state in the event of a collective redundancy involving the vessel’s crew. In order to reflect the amendment, regulation 3(2) inserts article 221A in the 1996 Order (Duty of employer to notify competent authority of a vessel’s flag State of certain redundancies).

The 2005 Regulations implemented in Northern Ireland [Directive 2002/14/EC](#) (“the 2002 Directive”) establishing a general framework for informing and consulting employees in the

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European Union. Article 3(3) of the 2002 Directive permitted member States to exclude from the scope of the application of the Directive the crews of vessels plying the high seas. Regulation 40 of the 2005 Regulations implemented the derogation and allowed an employer to exclude merchant navy crew engaged on voyages of 48 hours or more from being a negotiating representative or an information and consultation representative as defined by the 2005 Regulations.

The Seafarers Directive amends the 2002 Directive by removing Article 3(3) from the scope of the 2002 Directive. In order to reflect the amendment, regulation 4 amends the 2005 Regulations by omitting regulation 40.

An impact assessment has not been prepared for these Regulations as no significant impact on individuals or businesses is foreseen. A copy of the transposition note can be obtained from the Department for the Economy, Employment Relations Policy and Legislation Branch, Adelaide House, 39-49 Adelaide Street, Belfast, BT2 8FD. A copy of this document and the Explanatory Memorandum are available alongside these Regulations at www.legislation.gov.uk.