

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES
(FRAUD COMPENSATION LEVY) (AMENDMENT)
REGULATIONS (NORTHERN IRELAND) 2022

S.R. 2022 No. [98]

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 171(4) of the Pensions (Northern Ireland) Order 2005 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations give effect to a new maximum Fraud Compensation Levy ceiling applicable to eligible occupational pension schemes.

3. Background

- 3.1 The Pensions Act 2004 established the Pension Protection Fund and the Fraud Compensation Fund. The PPF's responsibilities include the operation of the FCF which provides compensation to eligible occupational pension schemes where there has been a scheme asset reduction, which is attributable to an offence involving dishonesty, and where the employer has become insolvent or is unlikely to continue trading.
- 3.2 The costs of the compensation paid from the Fraud Compensation Fund is recovered from eligible occupational pension schemes by the Fraud Compensation Levy. Existing regulations under Article 171 of the Pensions (Northern Ireland) Order 2005, and corresponding Great Britain regulations, specify the maximum FCL that may be imposed on eligible pension schemes. Currently, the Board of the Pension Protection Fund, as scheme manager of the FCF, can raise an annual FCL on eligible occupational pension schemes, capped at a maximum (the ceiling) of £0.75 per member and £0.30 per member for authorised Master Trusts.
- 3.3 In November 2020, the High Court, in the case of *The Board of the PPF v Dalriada Trustees Ltd*, clarified that pension liberation schemes, if they satisfied all specified criteria, were able to make a claim on the Fraud Compensation Fund. However, the Fund does not hold sufficient assets to meet claims arising from the judgment and the Fraud Compensation Levy ceiling is set at a level which does not allow the Pension Protection Fund to raise the income required to pay the claims.

- 3.4 The Fraud Compensation Fund provisions in the Compensation (London Capital & Finance plc and Fraud Compensation Fund) Act 2021 ensure that the FCF can continue to operate as a going concern and fulfil its obligations to pay compensation to pension scheme members who have been affected by pension liberation fraud.
- 3.5 Pension liberation fraud involves members being persuaded to transfer their pensions from legitimate schemes to fraudulent schemes with promises of high investment returns or access to a loan from their pension scheme before age 55 without incurring a tax charge.
- 3.6 These Regulations will allow the Pension Protection Fund to set a Fraud Compensation Levy on eligible occupational pension schemes, capped at a maximum of £1.80 per member, and 65 pence per member for authorised Master Trusts.

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 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. 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 The Regulations do not require a Regulatory Impact Assessment as they have only a negligible 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 is content that these Regulations comply with section 24 of the Northern Ireland Act 1998 (Convention rights, etc.).

9. EU Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 The Great Britain Regulations are the Occupational Pension Schemes (Fraud Compensation Levy) (Amendment) Regulations 2022 (S.I. 2022/259) which come into force on 1st April 2022. 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.