

EXPLANATORY MEMORANDUM TO
THE JUDICIAL PENSIONS (AMENDMENT) REGULATIONS (NORTHERN
IRELAND) 2023

S.R. 2023 No. 63

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice (DoJ) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under the Public Service Pensions Act (Northern Ireland) 2014 (the 2014 Act) and the Public Service Pensions and Judicial Offices Act 2022 (the 2022 Act) and is subject to the negative resolution procedure.
- 1.3. The Assembly procedure for making these Regulations would ordinarily be by the draft affirmative procedure. However, the 2014 Act under which the regulations are made allows the use of the negative procedure if the Pension Board for that scheme has stated that it considers the Regulations to be “minor or wholly beneficial”. The Department has obtained the agreement of the Northern Ireland Judicial Pension Scheme Pension Board that the proposed amending regulations are “minor or wholly beneficial”. Consequently, the Department intends to make the amending Regulations by the negative procedure.

2. Purpose

- 2.1. The Statutory Rule will amend the Judicial Pensions Regulations (Northern Ireland) 2015 (S.R. 2015 No. 76). The Judicial Pensions Regulations (Northern Ireland) 2015 (“the 2015 Regulations”) created a new Northern Ireland Judicial Pension Scheme (NIJPS) for eligible devolved judicial officer holders in Northern Ireland (tribunals judiciary) which came into effect on 1 April 2015 (“the 2015 Scheme”). The Statutory Rule makes technical amendments to the 2015 Regulations which are described below in more detail.

3. Background

- 3.1. The provisions of these Regulations seek to maintain parity with amendments that the Ministry of Justice in England and Wales made to its 2015 judicial pension scheme, which are contained in the Judicial Pensions (Amendment) Regulations 2017 (SI 2017/508). It is considered necessary to ensure parity between the schemes so that the devolved tribunals judiciary enjoy the same treatment in relation to pension matters as their Northern Ireland courts colleagues (who are members of the equivalent England and Wales 2015 judicial pension scheme because their remuneration remains a matter for the Lord Chancellor to determine under Schedule 2 of the Northern Ireland Act 1998) as well as their GB judicial colleagues.

- 3.2. The regulations recognise service in the Fee Paid Judicial Pension Scheme (FPJPS) which provides pension benefits to eligible part time members of the judiciary for service between 2000 and 2015 in order to ensure that, where relevant, pensions calculated under the NIJPS take account of a person's service in that scheme.
- 3.3. The regulations also makes changes to the rules on forfeiture so that a judicial member's negligence is not a ground for off setting pension and correct the definition of index adjustment to ensure that the adjustment of the opening balance of a member's pension account is made using the index adjustment for the year it followed.
- 3.4. The regulations remove the obligation to carry out actuarial valuations of the scheme, which are no longer required as the scheme is closed to further accruals from April 2022.

4. Consultation

- 4.1 The Department of Justice carried out a targeted consultation on proposals for these draft regulations between 13 October 2022 and 8 December 2022 with pension scheme members, judicial associations and bodies. The Department did not receive any responses.

5. Equality Impact

- 5.1. The Department has concluded that the proposals do not have any adverse impact on any section 75 group and that an equality impact assessment is therefore not necessary.

6. Regulatory Impact

- 6.1. There is no impact on business, charities, social economy enterprises or the voluntary sector. A regulatory impact assessment is not, therefore, necessary.

7. Financial Implications

- 7.1. The proposed amendments are not anticipated to require additional Departmental funding.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. It is the view of the Department that the draft regulations are in compliance with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. The Regulations replicate those that the Ministry of Justice have already made in relation to its equivalent pension scheme.

11. Additional Information

- 11.1. Not applicable.