

**EXPLANATORY MEMORANDUM TO**  
**THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES**  
**(MISCELLANEOUS AMENDMENTS) REGULATIONS**  
**(NORTHERN IRELAND) 2010**

**S.R. 2010 No. 108**

**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 17(1) of the Pension Schemes (Northern Ireland) Act 1993, Articles 68(2)(e), 73B(4)(a) and 116 of the Pensions (Northern Ireland) Order 1995, Article 27 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and Articles 209(2) and (3) and 236(1) and (2) of the Pensions (Northern Ireland) Order 2005 and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1 These Regulations make a number of technical and minor amendments to several sets of Regulations relating to occupational and personal pensions. In summary, the Regulations –
- add “changing the definition of pensionable earnings” to the listed changes upon which an employer is required to consult when proposing changes to a defined benefit occupational pension scheme;
  - allow schemes with specific restrictive rules to make changes without the approval of Revenue and Customs;
  - extend the circumstances when small lump sums can be taken without incurring taxation charges;
  - reflect changes in the guidance issued by the Board for Actuarial Standards;
  - correct inaccurate cross-references.

**3. Background**

- 3.1 Consultation by employers  
Larger employers are required to consult with affected members or their representatives when certain significant changes (known as “listed changes”) are proposed to work-based pension arrangements. Changing the definition of pensionable earnings can have a significant impact on pension benefits. Consultation gives the affected members the opportunity

to have their say about future changes to their pension scheme and ensures that they are fully aware of the changes and the implications for their future pension provision.

3.2 Revenue and Customs

Prior to 6th April 2006, pension schemes had to be formally approved by Revenue and Customs in order to receive tax privileges. As amendments to the governing documentation of these schemes required similar approval, many approved pension schemes had written into their rules that the rules could not be amended without the approval of Revenue and Customs. So, although the requirement for approval by Revenue and Customs was removed from 6th April 2006, many of these schemes still require approval for rule changes.

3.3 The Registered Pension Schemes (Modification of the Rules of Existing Schemes) Regulations 2009, which are of United Kingdom-wide extent, set out that the requirement to have rule changes approved by Revenue and Customs could be disregarded for a transitional period. However, a small number of schemes rely upon Departmental regulations to give them the power to amend their rules.

3.4 These Regulations will enable trustees of a trust based pension scheme, without the power to amend its rules through a rule amendment, to modify the scheme by resolution, so as to remove the now defunct requirement for Revenue and Customs consent.

3.5 Small lump sums

The Registered Pension Schemes (Authorised Payments) Regulations 2009, which are also of United Kingdom-wide extent, permit additional circumstances where small lump sums can be taken instead of a pension without incurring taxation charges. The intention was that contracted-out occupational pension schemes would also be able to make these additional authorised payments.

3.6 The Occupational and Personal Pension Schemes (Authorised Payments) (Amendment) Regulations (Northern Ireland) 2009 included an amendment which was intended to allow guaranteed minimum pensions to be commuted in the same way as non-contracted-out benefits. However, the provision does not work as intended and these Regulations rectify the problem.

3.7 Board for Actuarial Standards

Existing legislation contains reference to specific numbered guidance notes issued by the Board for Actuarial Standards which an actuary must take account of when advising pension schemes on winding up or funding issues. The Board is developing a new set of standards which will replace the existing guidance notes. These Regulations replace references to specific actuarial guidance notes with more generic terms to any relevant guidance or standards which the Board has issued on respective subjects.

3.8 Minor corrections

These Regulations make some minor corrections to cross-references.

**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 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 the amendments are largely technical in nature, consequential or of interest to only a small number of stakeholders, the proposals would have little implication for any of the section 75 categories. In light of this, the Department has concluded that the proposals 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 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 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 (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/499) which come into force on 6th April 2010. 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.