

EXPLANATORY MEMORANDUM TO
THE TRANSFER VALUES (DISAPPLICATION) REGULATIONS
(NORTHERN IRELAND) 2010

S.R. 2010 No. 121

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 sections 89(1B)(aa), 97F(6A), 177(2) and (3) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations will in most circumstances prevent transfers of cash equivalent sums (built up under other pension arrangements) into and out of the National Employment Savings Trust pension scheme to ensure it complements those schemes already in the existing pensions market and keeps the arrangements as simple as possible for all parties

3. Background

- 3.1 The National Employment Savings Trust Order 2010 will establish, on a United Kingdom-wide basis, the National Employment Savings Trust pension scheme (formerly known as the personal accounts scheme) to provide a low cost pension scheme for moderate to low earners and to help people build up a better income in retirement.
- 3.2 The Pensions Act 2008 and the Pensions (No. 2) Act (Northern Ireland) 2008 (“the No. 2 Act”) provide the legal framework for the scheme. The intention is to give trustees the flexibility to run the scheme in the best interests of its members, whilst ensuring all employers have access to an appropriate pension scheme to fulfil their new duty. It will ensure that employers have access to a low-cost pension scheme for their workers.
- 3.2 The transfer value provisions set out in the Pension Schemes (Northern Ireland) Act 1993 (“the 1993 Act”) give members of pension schemes the general right to transfer out of their scheme into another scheme. However, section 109 of the No. 2 Act amends the 1993 Act to provide for the transfer value provisions not to apply in prescribed circumstances. The purpose of the amendment was to allow a general ban on the transfer of pension funds into, or out of, the National Employment Savings Trust pension scheme. This reflects the consensus that the new National Scheme should not undermine existing good quality pension schemes. The general prohibition on transfers is designed to minimise the impact on such

schemes. It is also designed to promote simplicity for employers, individuals and the National Scheme as transfers involve complex financial decisions and processes for all parties.

3.3 These Regulations disapply the transfer value provisions in relation to the scheme and set out the exceptions to the disapplication. Transfers out will be permissible in the following circumstances –

- where the member has attained normal minimum pension age (age 55 from 2010), for the purpose of accessing pension saving or for pension credit benefit transfers (pension credit benefit is benefit derived from a pension share following divorce);
- where the member satisfies the trustee that they are suffering from an ongoing incapacity.

Such transfers can only be made to tax registered pension schemes or a qualifying overseas pension scheme which is recognised by Revenue and Customs.

3.4 These relaxations of the general ban will allow members to transfer out their funds and consolidate their pension saving, thereby enabling members to achieve the best possible outcome from retirement.

4. Consultation

4.1 There is no requirement to consult on these Regulations. However, the Department for Work and Pensions has had a high level of engagement with stakeholders (including 12 Northern Ireland organisations and interests).

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 proposals are of a technical nature they 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 no 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 Transfer Values (Disapplication) Regulations 2010 (S.I. 2010/6) which come into force on 5th July 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.