EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (MAXIMUM ADDITIONAL PENSION) REGULATIONS (NORTHERN IRELAND) 2010

S.R. 2010 No. 62

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Social Development ("the Department") to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under sections 52(3) and 171(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ("the 1992 Act") and is subject to the negative resolution procedure.

2. Purpose

2.1 The Regulations replace the Social Security (Maximum Additional Component) Regulations (Northern Ireland) 1979 to align the maximum additional pension calculation for surviving partners with changes simplifying the State Second Pension.

2.2 Regulation 1 provides for citation and commencement. Paragraph (2) defines a number of phrases used in the Regulations and in particular "applicable limit" which is defined by reference to section 44(7)(c) of the 1992 Act which in relation to any year before 2009-10, is the upper earnings limit and from 2009-10 onwards is the upper accrual point.

2.3 Regulation 2 sets the maximum amount of additional pension a person is entitled to. It provides that the maximum additional pension is the amount of additional pension a person would be entitled to where they reach State Pension age on a specified day and in respect of which the person had an earnings factor specified in paragraph (3).

2.4 Paragraph (3) provides that the maximum additional pension is the amount of additional pension which a person would be entitled to based on an annual earnings factor of 53 times that year's applicable limit.

2.5 Regulation 3 revokes the Social Security (Maximum Additional Component) Regulations (Northern Ireland) 1979 which had provided for a maximum additional pension based on the upper earnings limit.

3. Background

3.1 Section 52 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 makes provision in relation to the basic and additional State Pension for surviving spouses and civil partners. It provides that where a bereaved person inherits additional State Pension from their late spouse or civil partner on top of their own additional State Pension, the amount payable is capped at a maximum level set out in regulations.

3.2 The cap has been applied since 1979 when the first additional pensions under the State Earnings Related Pension scheme became payable. It was put in place to provide security following bereavement without exceeding the maximum additional State Pension a person could be expected to build up from their own contributions.

3.3 The Social Security (Maximum Additional Component) Regulations (Northern Ireland) 1979 provide that the earnings on which the maximum additional pension is calculated are determined by reference to the upper earnings limit, which is the point at which State Second Pension accruals cease. It is calculated by assuming that a bereaved person has earnings of 53 times the weekly upper earnings limit for each year between 1979 and the year they are bereaved.

3.4 The Pensions Act (Northern Ireland) 2008 introduced the upper accrual point to replace the upper earnings limit as the maximum ceiling on State Second Pension accruals. The Pensions (No. 2) Act 2008 subsequently set the upper accrual point at £770 per week and brought forward its introduction to April 2009.

3.5 The Regulations replace the Social Security (Maximum Additional Component) Regulations (Northern Ireland) 1979 to align the maximum additional pension calculation with changes simplifying the State Second Pension.

4. Consultation

As the Regulations 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, they do not have to be submitted to the Social Security Advisory Committee.

5. Equality Impact

The proposals are consequential on provisions in the Pensions Act (Northern Ireland) 2008 and the Pensions (No. 2) Act (Northern Ireland) 2008 which were the subject of a full Equality Impact Assessments. The completed Assessments were published in October 2007 and November 2008 respectively.

6. Regulatory Impact

The Order does not require a Regulatory Impact Assessment as it does not impose a cost on business, charities, social enterprise or voluntary bodies.

7. Financial Implications

There are no financial implications arising from the proposed Regulations. The cost of the pension reform measures was addressed in the Regulatory Impact Assessment for the Pensions Act (Northern Ireland) 2008.

8. Section 24 of the Northern Ireland Act 1998

The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule is not incompatible with any of the Convention rights, is not incompatible with Community law, does not discriminate against a person or class of person on the ground of religious belief or political opinion, and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

Not applicable.

10. Parity or Replicatory Measure

The provisions come into operation on 6th April 2010 at the same time as the corresponding Great Britain provisions. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.