

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES
(ASSIGNMENT, FORFEITURE, BANKRUPTCY ETC.) (AMENDMENT)
REGULATIONS (NORTHERN IRELAND) 2011

S.R. 2011 No. 280

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 Articles 92(1)(b) and 166(3) of the Pensions (Northern Ireland) Order 1995 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations make amendments to existing pensions legislation consequential on the Finance Act 2011 which provides for a reduction from £255,000 to £50,000 in the annual allowance for tax-privileged pension saving for the tax year 2011-12. Tax relief is recovered in respect of any pension savings in excess of the allowance through an annual allowance tax charge. The Act makes provision for the payment of an individual's annual allowance charge for that year and following years by the individual's pension scheme out of their pension benefits. Taxation is an excepted matter under the Northern Ireland Act 1998.

3. Background

- 3.1 In October 2010 the Westminster Government announced reforms to pensions tax relief. As part of the reforms, the annual allowance for tax-privileged pension saving is reduced from £255,000 to £50,000 for the tax year 2011-12. Individuals whose pensions savings exceed the annual allowance will incur an annual allowance tax charge.
- 3.2 It is anticipated that most individuals and employers will adapt their pension saving behaviour to avoid incurring an annual allowance charge. Provision in the Finance Act 2011 enables individuals to nominate their pension scheme to pay some or all of their annual allowance charge on their behalf, with the scheme making a commensurate reduction to the individual's pension rights. The Regulations make the necessary consequential amendments to existing pensions legislation to allow for the consequential adjustment of the member's pension benefits. They also allow schemes to adjust the member's pension benefits if the scheme pays the annual allowance tax charge at the request of the member in cases where they are not required to under the Act.

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 consequential on the Finance Act 2011 and provide an easement for scheme members, 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 Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) (Amendment) Regulations 2011 (S.I. 2011/1801) which come into force on 11st August 2011. 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.