

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES
(AUTOMATIC ENROLMENT) (AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2012

S.R. 2012 No. 237

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 107A(15)(b) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993, Articles 49(8) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995 and sections 2(3), 3(2), (5) and (6), 5(2), (4), (6), (7) and (8), 6(1)(b) and (2), 7(4) to (6), 8(2)(b) and (3) to (6), 9(3), 10, 15(1) and (2), 16(2) and (3)(c), 17(1)(c), 18(c), 22(4) to (7), 23(1)(b) and (c), (3) and (6), 24(1), 25, 27, 28(1), (2)(b), (3A) and (4) to (7), 30(5), (6)(c) and (7A), 33(2), 37(3), 59 and 113(2) of the Pensions (No. 2) Act (Northern Ireland) 2008 and is subject to the confirmatory procedure.

2. Purpose

- 2.1 These Regulations amend the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 (S.R. 2010 No. 122) to –
- insert new regulations which provide the details of the certification test that an employer may use to meet their automatic enrolment duties;
 - provide that the scheme is treated as meeting the quality requirements for defined contribution schemes, where an employer certifies that their scheme meets the certification test.

3. Background

- 3.1 The Pensions (No. 2) Act (Northern Ireland) 2008 and corresponding provision in the Westminster Pensions Act 2008 (“the 2008 Acts”) introduce a duty on employers to enrol eligible jobholders into a qualifying workplace pension and to make minimum contributions into it. Under the legislation, employers are able to choose the qualifying workplace pension scheme they adopt to discharge this duty. A qualifying scheme is a scheme which meets specific criteria, for example, an occupational pension scheme (including the National Employment Savings Trust (NEST) established on a UK-wide basis under the Pensions Act 2008) or a workplace personal pension scheme.

- 3.2 An independent review of automatic enrolment into workplace pensions was announced by the Westminster Government in June 2010. The review examined the scope of the automatic enrolment policy. Recommendations were published in October 2010 in the report *Making Automatic Enrolment Work*.
- 3.3 Part 2 of the Pensions Act (Northern Ireland) 2012 and corresponding provision in the Westminster Pensions Act 2011 amend the 2008 Acts to implement recommendations of the Making Automatic Enrolment Work review and to ensure that the legislation meets the policy intention.

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 Proposals for the Pensions (No. 2) Act (Northern Ireland) 2008 and the Pensions Act (Northern Ireland) 2012 were subject to full Equality Impact Assessments. 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 and give effect to provisions of the Pensions Act (Northern Ireland) 2012 which was subject to a full Equality Impact Assessment 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 A Regulatory Impact Assessment was carried out on the proposals for the Pensions (No. 2) Act (Northern Ireland) 2008 and the Pensions Act (Northern Ireland) 2012. While these Regulations provide for easements which bring greater flexibility, for example, in relation to certification, the financial impacts are negligible.

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 (Automatic Enrolment) (Amendment) Regulations 2012 (S.I. 2012/1257) which come into force on 1st July 2012. 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.