

**EXPLANATORY MEMORANDUM TO**  
**THE PENSION SCHEMES ACT 2015**  
**(TRANSITIONAL PROVISIONS AND APPROPRIATE INDEPENDENT ADVICE)**  
**REGULATIONS (NORTHERN IRELAND) 2015**

**S.R. 2015 No. 165**

**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 51(2), (3)(a), (4) and (8), 52, 86 and 89(6) of the Pension Schemes Act 2015 and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1 These Regulations set out how trustees must check that pension schemes members with “safeguarded benefits” (benefits which are not money purchase or cash balance) have taken appropriate independent advice before transferring or converting safeguarded pension rights to provide benefits that can be accessed flexibly. They also provide for when an employer must pay for the cost of such advice and make transitional provision in consequence of the coming into force of section 51 of the Pension Schemes Act 2015.

**3. Background**

- 3.1 The Taxation of Pensions Act 2014 gives savers greater flexibility in how they access their money purchase pension pots from 6th April 2015. That Act amends the Finance Act 2004 to enable individuals with certain types of benefits to have more flexibility of access to those benefits (known as the pension flexibilities).
- 3.2 The Pension Schemes Act 2015 (“the 2015 Act”) includes provision to support the pension flexibilities and creates a new term “flexible benefits” which covers the types of benefits to which the pension flexibilities apply and allows pension scheme members with such benefits a statutory right to transfer between schemes up to and beyond their scheme’s normal retirement age.
- 3.3 The 2015 Act introduces the concept of “safeguarded benefits”, which broadly cover pension arrangements that the flexibilities do not apply to, and creates a requirement for scheme members with safeguarded benefits to take appropriate independent advice before trustees can process a transfer request. Safeguarded benefits are benefits which offer a member an element of guarantee in relation to their retirement savings. They offer a level of security in retirement which a member would lose if they were to exchange them for benefits that can be accessed flexibly.

- 3.4 The 2015 Act introduces the concept of appropriate independent advice and stipulates that this is advice given by a Financial Conduct Authority authorised adviser. The advice requirement is triggered by a number of different transactions. These are: the statutory or non-statutory transfer of safeguarded benefits to flexible benefits, the conversion of safeguarded benefits to flexible benefits, and the withdrawal of an uncrystallised funds pension lump sum from safeguarded benefits.
- 3.5 Section 51 of the 2015 Act provides for regulations to prescribe how the advice safeguard will operate in practice. These Regulations–
- set out what trustees and managers must do to check that appropriate independent advice has been received, where a member makes a request to transfer or convert their safeguarded benefits for those which can be taken flexibly, including the timeframes for sending out notices to members and the deadlines for receiving confirmation;
  - set out what this confirmation must contain, and that trustees must check that the adviser named on the confirmation is authorised by the Financial Conduct Authority;
  - prescribe that where the cash equivalent value of a member’s safeguarded benefits in the scheme is £30,000 or less then the member is exempt from the requirement to take appropriate independent advice. Trustees must notify members whether they fall into this exemption;
  - require employers to arrange and pay for a member or survivor to receive appropriate independent advice if they send out communications to actively encourage, induce or persuade more than one member to transfer or convert their safeguarded benefits.
- 3.6 These Regulations ensure that the advice safeguard operates as intended when the pension flexibilities come into force on 6th April 2015 and that the transfer process set out in the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 operates in unison with these Regulations.

#### **4. Consultation**

- 4.1 There is no requirement to consult on these Regulations. 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 proposals are in consequence of provisions in the Pension Schemes Act 2015 which support the pension flexibilities introduced by the Taxation of Pensions Act 2014 and are technical in nature, they would have little implication for any of the section 75 categories. In light of this, the Department has concluded that they would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

## **6. Regulatory Impact**

- 6.1 An Impact Assessment covering the independent advice requirements impact on business and civil society organisations was published in November 2014 alongside the Pension Schemes Bill and can be found at the following link; <http://www.parliament.uk/documents/impact-assessments/IA14-13A.pdf>

## **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 Great Britain Regulations are the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015 (S.I. 2015/742) which come into force on 6th April 2015. 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.

## **11. 21 Day Rule**

- 11.1 The Great Britain Regulations were made on 17th March 2015. These Regulations were made as soon as possible thereafter. Owing to parity considerations it is vital that the Regulations come into operation on the same date as the Great Britain Regulations, in this instance 6th April 2015.