EXPLANATORY MEMORANDUM TO

The State Pension Credit (Amendment) Regulations (Northern Ireland) 2015

S.R. 2015 No. 331

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 powers conferred by the State Pension Credit Act (Northern Ireland) 2002 and the Pensions Act (Northern Ireland) 2015, and is subject to the negative resolution procedure.

1.3 The rule is due to come into operation on 6th April 2016.

2. Purpose

2.1 The purpose of the regulations is to make amendments to the State Pension Credit Regulations (Northern Ireland) 2003 to make provision for the restriction of the Savings Credit element of Pension Credit (PC) for mixed age couples (where one member reaches State Pension age before 6 April 2016 and the other on or after that date), so that there will be no new awards of Savings Credit from 6 April 2016 but there will be some protection for those already receiving it. It also makes provision for the early removal of the Assessed Income Period for some Pension Credit customers from 6 April 2016.

3. Background

3.1 This rule is necessary in order to implement two significant changes to PC, as prescribed in the Pensions Act (Northern Ireland) 2015 (“Pensions Act”).

3.2 The first change is the limitation of the Savings Credit element for certain mixed-age couples from 6 April 2016. There are two parts to PC – Guarantee Credit and Savings Credit. The Guarantee Credit element of PC tops up a pensioner’s income to a guaranteed minimum level. The Savings Credit provides additional support for those aged 65 and over who have made some additional provision for their retirement. The current basic State Pension is set below the level of the standard minimum guarantee in PC, creating the problem that anyone who has made additional provision for their retirement will see that amount deducted pound for pound from their PC. The Savings Credit is intended to resolve this problem by rewarding people who have saved modest amounts for their retirement, ensuring that they receive an income above the level of the standard minimum guarantee in Guarantee Credit. However, the level of the full new State Pension will be set above that level, effectively removing the problem that the Savings Credit was designed to address.

3.3 Therefore, under section 23 of and Schedule 12, Part 3 to the Pensions Act, there will be no access to the Savings Credit for those reaching State Pension age on or after 6 April 2016 unless they are a member of a couple where the other member reached State Pension age before 6 April 2016 (referred to as a mixed-age couple).

3.4 Pension Credit is a household benefit (in that the circumstances, income and capital of both members of a couple are taken into account for PC purposes) and therefore the intention is that households that includes someone who reaches State Pension age under the new State Pension should not have access to Savings Credit. For mixed-age couples, the intention is that there will be no new awards of Savings credit from 6 April 2016 but there will be some protection for those already receiving it.

3.5 Paragraph 90 of Schedule 12 to the Pensions Act inserts a new power into the State Pension Credit Act (Northern Ireland) 2002 at section 3ZA to make regulations to limit entitlement to Savings Credit for certain mixed-age couples.

3.6 The Regulations specify the conditions that must be satisfied for a mixed-age couple to be entitled to Savings Credit. one member must:

- have attained State Pension age before 6 April 2016; and
- be entitled to Savings Credit immediately before 6 April 2016; and
- be entitled to Savings Credit at all times since 6 April 2016.

3.7 The second change is the bringing forward of the dates on which certain Assessed Income Periods will end. The Assessed Income Period (AIP), a feature of PC from its introduction in 2003, removed the requirement for many recipients aged 65 and over to notify the Department of changes to their retirement provision during a set period, for the purposes of assessing their continuing entitlement to PC. Retirement provision is essentially capital and pension income. The maximum length of an AIP is 5 years in the case of a recipient who is under the age of 75 when their AIP is set, but is an indefinite period in the case of a recipient who is aged 75 or over when their AIP is set. Changes which would increase the award can continue to be notified during an AIP and lead to a change in the award. Changes that would reduce the award are assessed if they are notified, but the award itself is not changed until the end of the AIP.

3.8 The assumption, when AIPs were introduced, was that pensioners are more likely to have relatively stable income and capital. However, this assumption has not proved to be correct. Recent analysis shows that pensioners’ financial circumstances change more significantly than was anticipated when the policy was being developed. Fixing retirement provision for such a long period has allowed some recipients to keep their benefit despite obtaining higher amounts of capital or new income streams. If an AIP were not in place in these cases, the award would either be reduced or removed entirely. A decision was therefore taken as part of the 2013 Spending Round to abolish AIPs.

3.9 The Pensions Act limits the application of AIP legislation to decisions that take effect before 6 April 2016. This means that, from 6 April 2016, no new AIPs will be set. Once this change takes effect, any change in retirement provision must be reported when it occurs, triggering an immediate review and change of the PC award where appropriate. AIPs set before 6 April 2016 will remain valid beyond that date, until such time as they end – through natural expiry, being phased out early (see below), or under existing rules on reporting changes of circumstances.

3.10 The Pensions Act states that regulations may be made, in particular, for the purpose of phasing out, on or after the 6 April 2016, any remaining AIP that is 5 years or shorter in length. The amendment to regulation 12, of the State Pension Credit Regulations (Northern Ireland) 2003 will provide for this. It will bring to an end all of these AIPs within 3 years (time frame agreed at the Spending Round 2013). From 6 April 2016:-

- existing AIPs due to end on a date between April 2016 and March 2019 will run their course until they end (in whatever circumstances under the current rules); and
- existing AIPs that would otherwise be due to end after March 2019 will be brought forward to end on a specified date between July 2016 and March 2019.

3.11 By April 2019, the only AIPs still in existence should be those that were set indefinitely prior to 6 April 2016 and where the recipients' circumstances have remained unchanged.

3.12 The schedule of those AIPs which will be ended early is set out in a table which will be added to the State Pension Credit Regulations (Northern Ireland) 2003 in Schedule 3A. Column 1 of the table sets out the dates when these AIPs were originally due to be terminated, and Column 2 provides the new dates on which they will now end. This table contains gaps between some of the months, which will allow Operations to distribute and manage the prescribed volumes, including customer contact and explanation of benefit revision.

3.13 As the fixed AIPs come to an end, Periodic Case Reviews will be conducted on those cases in future. These are generally conducted on a 3 yearly basis, but are not set out in existing legislation and can therefore be applied more flexibly – taking account of various risk factors where appropriate.

4. Consultation

4.1 The policies were debated during the passage of the Pensions Bill and have not been subject to separate formal consultation.

4.2 The policy relating to the abolition of Savings Credit was initially consulted on in Northern Ireland as part of the Westminster consultation process; details of the policy proposal were included in the consultation paper *"State Pension Reform: A State Pension for the 21st Century"* (Cm 8053) in April 2011 and *"The single-tier pension: a simple foundation for saving"* (Cm 8528) in January 2013. Responses from Northern Ireland were considered alongside those sent by individuals and organisations in England, Scotland and Wales.

4.3 The AIP abolition is a "spend-to-save" initiative and was announced as part of the wider measures in the 2013 Spending Round. Both policy measures were debated during the passage of the Pensions Bill. The draft Pensions Bill containing draft legislation for these measures and others was published on 18 January 2013. These Regulations will simply implement the policy measures.
https://www.gov.uk/government/uploads/system/uploads/attachment data/file/181121/draft-pensions-bill.pdf

4.4 The Social Security Advisory Committee discussed the corresponding Great Britain Regulations at their meeting on 4th March 2015 and after careful consideration, agreed that they did not require them to be formally referred.

5. Equality Impact

5.1 The Department considered the proposed reforms contained in the Pensions Bill in the context of the promotion of equality of opportunity and good relations and consulted on the Equality Impact Assessment from 21 November 2013 to 14 February 2014. Responses were received from Advice NI, Northern Ireland Public Service Alliance and the Women's Support Network. Following the consultation period the Social Development Committee was briefed on 6 March 2014 on the equality implications of the proposed Bill and the responses received. The Completed Equality Impact Assessment was published in April 2014.

5.2 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have any significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

5.3 Every social security policy by its very nature has a differential impact in that the policy is designed to meet a specific need, in this case to remove the Savings Credit element of PC for certain claimants and remove the Assessed Income Period and will apply to all PC claimants regardless of religious belief, political opinion, race, sexual orientation, gender or disability.

6. Regulatory Impact

6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

7.1 No financial implications

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has also considered its obligations under section 24 of the Northern Ireland Act 1998. It is the Department's judgement that the State Pension Credit (Amendment) Regulations (Northern Ireland) 2015 are not incompatible with the Convention rights, are not incompatible with Community law, do not discriminate against any person or class of person on the ground of religious belief or political opinion and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. E.U. Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The Regulations mirror the Great Britain Regulations which are to come into force on 6th April 2016.

11. Additional Information

11.1 Not applicable