

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES
(SCHEMES THAT WERE CONTRACTED-OUT) REGULATIONS
(NORTHERN IRELAND) 2016

S.R. 2016 No. 107

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 various provisions of the Pension Schemes (Northern Ireland) Act 1993 and the Pensions (Northern Ireland) Order 1995 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations revoke and replace most of the provisions of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 in consequence of the abolition of contracting-out when the new State Pension is introduced on 6th April 2016.

3. Background

- 3.1 Introduction of the new State Pension will abolish the additional pension for those reaching pensionable age after the start date.
- 3.2 Accordingly, section 24 of, and Schedule 13 to, the Pensions Act (Northern Ireland) 2015 provide for the ending of the option for sponsoring employers of salary related occupational pension schemes to contract their employees out of the additional pension. This option will end on the start of the new State Pension, on 6th April 2016.
- 3.3 By virtue of the Pensions (2015 Act) (Savings) Order (Northern Ireland) 2016, some provisions of the Pension Schemes (Northern Ireland) Act 1993 being repealed by the Pensions Act (Northern Ireland) 2015 will continue to have effect. In particular, provisions relating to the issue, variation and surrender of contracting-out certificates will remain in operation to enable HMRC to issue certificates relating to a period before 6th April 2016, and to deal with any variation or surrender of such a certificate which is to take effect from a date preceding that date. Provisions relating to schemes which have ceased to contract-out before 6th April 2016 also remain in operation, to ensure that HMRC is notified of the termination of contracted-out employment in these circumstances and that earners' pension rights are protected.

3.4 The Regulations make technical provision to reflect the abolition of contracting-out. They –

- re-enact, with modifications, provisions which continue to apply indefinitely to pension schemes which were contracted-out prior to 6th April 2016;
- make provision for all schemes which were salary related contracted-out schemes;
- carry forward additional requirements relating to section 5(2B) rights (rights attributable to employment which was contracted-out on or after 6th April 1997) and continue additional requirements in relation to guaranteed minimum pensions;
- impose limitations on the alteration of scheme rules, deal with correction of errors as to whether an earner was in contracted-out employment, provide for the disclosure of certain information by the Department or HMRC to certain parties, and continue requirements as to the rules of overseas schemes;
- set out the circumstances in which scheme rules may be altered in relation to section 5(2B) rights, carry forward requirements for the payment of lump sums and commutation of benefits, and govern the circumstances in which section 5(2B) rights may be forfeited;
- continue limitations on the alteration of scheme rules in relation to guaranteed minimum pensions, carry forward requirements as to the payment of pensions to surviving spouses and civil partners, deal with revaluation of guaranteed minimum pension, describe the circumstances in which a lump sum may be paid instead of a pension, carry forward provision as to suspension and forfeiture of guaranteed minimum pension and deal with conversion of guaranteed minimum pensions into other benefits;
- make consequential amendments, revocations and savings.

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 Act (Northern Ireland) 2015 were subject to a full Equality Impact Assessment. 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 they 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 A Regulatory Impact Assessment was carried out on the proposals for the Pensions Act (Northern Ireland) 2015. These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional cost 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 (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677) and regulation 6 of the State Pension and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/199) which come into force on 6th April 2016.