

**EXPLANATORY MEMORANDUM TO**

**THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES (AUTOMATIC ENROLMENT) (MISCELLANEOUS AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 2016**

**S.R. 2016 No. 142**

**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 11, 12, 23A(1)(b), 69A(1), (3) and (4) and 113(2) of the Pensions (No. 2) Act (Northern Ireland) 2008 (“the Pensions (No. 2) Act”) and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1 These Regulations make technical amendments to a number of sets of existing Regulations to create further exceptions to the automatic enrolment employer duties in certain circumstances and introduce an alternative quality requirement for certain defined benefits schemes in consequence of the abolition of contracting-out. They also introduce certain easements to simplify the automatic enrolment process for employers.

**3. Background**

- 3.1 The Pensions (No. 2) Act and corresponding provision in the Westminster Pensions Act 2008 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 The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 set out the practical arrangements underpinning automatic enrolment, for example, the processes and timings for complying with the employer duties.
- 3.3 In recognition that there are people for whom pension saving is either not suitable or where the automatic enrolment requirement is disproportionate, the Pensions Act (Northern Ireland) 2015 (“the 2015 Act”) introduced a discretion to enable employers to choose whether or not to automatically enrol jobholders in certain circumstances. It inserted section 69A into the Pensions (No. 2) Act to allow for exceptions to the employer duties so that in prescribed situations an individual may not be automatically enrolled into a pension scheme. It also inserted section 23A into the Pensions (No. 2) Act which provides powers to introduce alternative quality requirements for defined benefits schemes. It allows for alternative

prescribed tests to demonstrate that a defined benefits scheme is good enough to be used to meet the employer duty.

3.4 The 2010 Regulations were amended, in consequence of the 2015 Act, to create exceptions to the automatic enrolment employer duties in certain circumstances and introduce alternative quality requirements for defined benefits schemes. Easements to allow employers to streamline the information they are required to provide to their workers were also introduced.

3.5 These Regulations further amend the 2010 Regulations and other existing regulations relating to the employers' duties to –

- introduce two further exceptions to the employer duties and modify relevant sections of the Pensions (No. 2) Act where the jobholder is a director of the company by which they are employed or a member of a limited liability partnership who is not treated for tax purposes as being employed by the partnership;
- clarify that the employer duty to automatically enrol or re-enrol a worker or jobholder is turned into a discretion where the worker receives a winding-up lump sum, ceases to be employed and is re-employed by the same employer but becomes eligible for automatic enrolment or re-enrolment during the 12-month period. After the 12-month period, the duty to enrol applies from the next automatic re-enrolment date;
- provide a transitional easement for certain contracted-out defined benefits schemes, in recognition of the abolition of contracting out from 6 April 2016. They allow such schemes to apply the cost of accruals test at scheme level. The easement applies until the earlier of the effective date of the first actuarial report on or after 6 April 2016 or 5 April 2019;
- make changes to the staging and re-declaration of compliance processes to reduce complexity and simplify processes for employers;
- make other consequential amendments and revocations.

#### **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 Proposals for the 2015 Act 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. They are technical and beneficial in nature and have little implication for any of the section 75 categories. 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 These Regulations do not require a Regulatory Impact Assessment as they do not impose a 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 and Personal Pension Schemes (Automatic Enrolment) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/311) which come into force on 6th April 2016. 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.