

EXPLANATORY MEMORANDUM TO
THE PENSIONS (2015 ACT) (CONTRIBUTIONS EQUIVALENT PREMIUM)
(CONSEQUENTIAL PROVISION) AND (SAVINGS) (AMENDMENT) ORDER
(NORTHERN IRELAND) 2016

S.R. 2016 No. 162

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 50, 51(6) and 53(5) of the Pensions Act (Northern Ireland) 2015 (“the 2015 Act”) and is subject to the negative resolution procedure.

2. Purpose

- 2.1 This Order clarifies the circumstances in which payment of a contributions equivalent premium (CEP) is required in relation to a member of a scheme that ceases to be a contracted-out occupational pension scheme from 6th April 2016. It also sets out the requirements for the CEP payments process, and includes consequential savings provision to reflect the abolition of contracting-out.

3. Background

- 3.1 The new State Pension, which will apply to people reaching pension age after 5th April 2016, provides for a new single tier pension replacing the current two-tier system of basic pension and additional pension. As it will no longer be possible to accrue rights to additional pension, the 2015 Act abolishes the option of contracting out of the additional pension. Although contracting-out is abolished from 6th April 2016, a number of provisions need to remain on a transitional basis, for example, to facilitate the winding up of the contracting-out system.
- 3.2 Trustees or managers of a contracted-out salary related occupational pensions scheme may, and (subject to certain exceptions) where the member has no accrued rights in the scheme must, make a CEP payment when a member of a contracted-out scheme leaves their employment with less than 2 years service. The purpose of a CEP is to buy the member back into the additional State Pension. The member is then effectively treated as if they had not been contracted out of the State system. It is possible that the current legislation could be interpreted as requiring a CEP to be paid at the point contracting out is abolished (6th April 2016) where the member has less than 2 years service at that point. This is not the policy intention as the member may go on to remain a scheme member for many years.

3.3 The Order clarifies that –

- a CEP is not required to be paid at abolition where such a member remains in pensionable service;
- a CEP is required to be paid where such a member leaves the scheme on or after 6th April 2016 with less than 2 years pensionable service and without having accrued rights in the scheme.

3.4 The Order also ensures that the CEP payments process works as intended. For example, it –

- sets out the time limits for notification and payment of a CEP to HMRC and for refund of a CEP following abolition of contracting-out;
- includes a de minimis provision so that where the amount of the CEP is £17 or less, the payment does not have to be made but will be treated as made;
- provides that a CEP must be paid out of the resources of the scheme or, where appropriate, the Pension Protection Fund;
- makes savings provision for the purposes of CEP payments to reflect the abolition of contracting-out.

4. Consultation

4.1 There is no requirement to consult on this Order. It makes in relation to Northern Ireland only provision corresponding to provision 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 this Order. As 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 This Order does not require a Regulatory Impact Assessment as it does 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 this Order –
- (a) is not incompatible with any of the Convention rights,
 - (b) is not incompatible with Community law,
 - (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
 - (d) does 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 Order is the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016 (S.I. 2016/252) which comes 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.