

EXPLANATORY MEMORANDUM TO
THE PENSION SHARING (MISCELLANEOUS AMENDMENTS) REGULATIONS
(NORTHERN IRELAND) 2016

S.R. 2016 No. 172

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 97C(2), 97H(3), 97J(6)(a), 97L(1), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993, Articles 21(1)(a), (b)(i), (c) and (d) and (3), 24(2), 27(1), 38(1) and (2) and 73(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and sections 51(2), (3)(a) and (4) and 83 of the Pension Schemes Act 2015 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations amend a number of sets of existing Regulations in consequence of provisions in the Pension Schemes Act 2015 which extend to Northern Ireland. The Regulations also ensure that the tax change flexibilities introduced by the Taxation of Pensions Act 2014 are reflected in pensions law and that the two bodies of law remain compatible and that appropriate safeguards are in place. They also make minor and technical amendments.

3. Background

- 3.1 The Taxation of Pensions Act 2014, which gives savers greater flexibility in how they access their money purchase pension pots from 6 April 2015, amended 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). In particular, it introduced new types of authorised payments by registered pension schemes.
- 3.2 The Pension Schemes Act 2015 includes provision to support the pension flexibilities and created a new term “flexible benefits” which covers the types of benefits to which the pension flexibilities apply. It also established a pension guidance service (known as Pension Wise) to help members of pension schemes, and survivors of members of pension schemes, to make decisions about what to do with their flexible benefits. A series of Statutory Rules were made to reflect the changes from 6 April 2015.

3.3 The Regulations make amendments to a number of sets of existing Regulations in relation to pension sharing on divorce etc. for members of pension schemes to reflect the pension flexibilities. For example, they make technical amendments –

- which concern valuation of rights under an occupational pension scheme for the purpose of making a pension sharing order and exclusion of certain rights from the scope of a pension sharing order;
- to ensure the appropriate application of provisions in relation to the transfer or conversion of pension credit rights which are safeguarded benefits for the purposes of section 51 of the Pension Schemes Act 2015 (independent advice in respect of conversions and transfers: Northern Ireland);
- update references etc.

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. 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 Pension Sharing (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/289) 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.