

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES
(SCHEME ADMINISTRATION) (AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2016

S.R. 2016 No. 192

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 section 51(6) of, and paragraphs 2(1), (3) and (5), 6 and 7 of Schedule 18 to, the Pensions Act (Northern Ireland) 2015 and is subject to the confirmatory procedure.

2. Purpose

- 2.1 These Regulations amend the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 (“the 1997 Regulations”) in relation to the governance provisions for multi-employer schemes to ensure that they apply to the relevant schemes. They also make other technical amendments to ensure that the governance provisions work as intended.

3. Background

- 3.1 The Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015 (“the 2015 Regulations”) amended the 1997 Regulations in consequence of the Pensions Act (Northern Ireland) 2015 (“the 2015 Act”). The 2015 Regulations introduced new governance measures across broadly all occupational pension schemes which offer money purchase benefits. They provide additional governance requirements for multi-employer schemes (known as “master trusts”) to mitigate the potential for conflicts of interest. In general, connected employers do not fall within the definition of multi-employer schemes.
- 3.2 These Regulations clarify some of the minimum and additional governance provisions. For example, they –
 - amend the definition of “relevant multi-employer scheme” to ensure that normal corporate activity does not bring a scheme into scope of the additional governance requirements unless it generally promotes itself as open to unconnected employers. In particular, they will allow corporate group schemes, connected in certain ways, to be exempt from the additional governance requirements (provided they meet the other requirements);
 - exempt the National Employment Savings Trust (NEST) from the duty imposed on trustees and managers to appoint a replacement chair within a

period of 3 months. This is in recognition that NEST has to meet specific statutory requirements and also needs to comply with the public appointments process;

- allow whoever is deputising for an absent chair to sign the annual statement on behalf of the trustees or managers;
- apply a statutory override to provisions in trust deeds and scheme rules where they conflict with the trustee requirements for “relevant multi-employer schemes”;
- allow relevant multi-employer schemes established by statute up to six months to comply with these requirements;
- extend the transitional period for schemes to comply with the governance requirements relating to the appointment of trustees and to clarify the period to be covered in the first governance statement.

4. Consultation

4.1 To address concerns raised about the ability of schemes in Northern Ireland to comply with the transitional arrangements, the Department consulted interested parties on proposed amendments relating to the appointment of trustees and the first annual governance statement. The Department did not receive any responses to the consultation. There is no requirement to consult on the other provisions.

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 the proposals 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 Pension Schemes (Scheme Administration) (Amendment) Regulations 2016 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.
- 10.2 The Great Britain Regulations were made on 21st March 2016. The Regulations were made as soon as possible thereafter. Owing to parity considerations the Regulations come into operation on the same date as the Great Britain Regulations, in this instance on 6th April 2016.