

EXPLANATORY MEMORANDUM TO
THE CONTRACTING-OUT (TRANSFER AND TRANSFER PAYMENT)
(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2017

S.R. 2017 No. 111

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 8C(1)(a), 16(1)(a)(iii), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations make technical amendments to existing Regulations to enable, in certain circumstances, schemes that were contracted-out to make transfers in respect of pensioner members into occupational pension schemes that have not previously been contracted-out.

3. Background

- 3.1 The Pensions Act (Northern Ireland) 2015 provided for the ending of the option for sponsoring employers of salary related occupational pension schemes to contract their employees out of the additional State pension. This option ended on the start of the new State pension, on 6th April 2016 as additional pension could no longer accrue.
- 3.2 Before contracting-out was abolished, it was possible for a contracted-out scheme or formerly contracted-out scheme to transfer its pensioner members, with their consent, to either a contracted-out scheme or a formerly contracted-out scheme. Following the abolition of contracting-out, a transfer of pensioner members to a newly established scheme is no longer possible because the new scheme cannot become a contracted-out scheme. This means that, where schemes find themselves in financial difficulties, pensioner members could find themselves transferred into the Pension Protection Fund (PPF) even where the pensioner members would be better off if they could be transferred into a new scheme.
- 3.3 These Regulations provide that a transfer can be made to a new scheme where either the transferring scheme is going through a PPF assessment period or it has entered a regulated apportionment arrangement (where the scheme has already entered, or is expected to enter, a PPF assessment period). They stipulate that the transfer can only be made where the pensioner member consents to the transfer in writing. The member must also acknowledge in writing to the transferring scheme

- receipt of a statement showing the benefits to be provided in respect of the transfer;
- acceptance that such benefits may be in a different form and of a different amount to those which would have been provided by the transferring scheme, and
- acceptance that the new scheme is not required to provide survivor's benefits in relation to the transfer.

This is to ensure that members will only be transferred to a new scheme if this is better for them than transferring into the PPF.

- 3.4 Transfers of contracted-out rights of deferred members (those who have ceased to be active members but have not yet reached pensionable age) to new schemes are already permitted. In effect, these Regulations bring transfers of pensioner members more into line with those of deferred members.
- 3.5 These Regulations allow transfers of contracted-out rights of pensioner members, with their consent, to new schemes (irrespective of their contracting-out status) as long as certain safeguards are met and they would benefit from doing so.

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 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. 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 Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600) which were made on 26th April 2017 to come into force on 3rd July 2017. Parity of timing and substance is an integral part of the maintenance of single systems of social security, child support and pensions in line with section 87 of the Northern Ireland Act 1998. The Regulations are necessary to ensure pensioner members of schemes in financial difficulties in Northern Ireland do not face financial disadvantage in comparison to pensioner members of such schemes in Great Britain. It was, therefore necessary to make the Regulations during the period of interregnum.