EXPLANATORY MEMORANDUM TO

THE PENSION PROTECTION FUND (MODIFICATION) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2017

S.R. 2017 No. 59

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 Articles 154(2) and 287(2) and (3) of, and paragraph 26(9) of Schedule 6 to, the Pensions (Northern Ireland) Order 2005 and section 49(8) of the Pensions Act (Northern Ireland) 2015 and is subject to the negative resolution procedure.

2. Purpose

2.1 The Regulations principally relate to the introduction in April 2017 of an increased pension compensation cap for long service in the calculation of pension compensation payable by the Pension Protection Fund (PPF). Specifically, the Regulations:

- allow for any compensation arising from different sources to have two separate caps applied. This amendment is retrospective.
- provide for the application of the long service cap where a person's entitlement to compensation arises from one source, but at different dates.

2.2 The Regulations additionally allow the PPF to discharge as a lump sum an individual's money purchase benefits where the total value of those benefits is below £10,000.

3. Background

3.1 The Pensions Act 2004 set up, on a UK-wide basis, the Pension Protection Fund (PPF) to provide compensation for members of eligible occupational pension schemes, where the sponsoring employer is insolvent and the scheme has insufficient assets to pay benefits at the Fund compensation levels. Schedule 6 to the Pensions (Northern Ireland) Order 2005 provides for a cap to be imposed on the amount of compensation payable by the Board.

3.2 The compensation payable to anyone who is under their scheme's normal pensionable age at the date of the insolvency (excluding those who have retired on health grounds) is based on 90 per cent of their accrued pension. This amount is subject to an overall maximum (the compensation cap). However, while in general the cap operates as intended, it can have a disproportionate effect on those with long service in a single scheme.

3.3 The Pensions Act (Northern Ireland) 2015 provides for the cap applied to PPF compensation to be increased to recognise long service, known as “the long service cap”. The long service cap will increase the standard cap by 3 per cent for every complete year of pensionable service above 20 years, up to a new maximum of twice the standard cap.

3.4 The Regulations allow for any compensation arising from different sources (for example, from a person’s own pensionable service and as a widow of a deceased scheme member) to have two separate caps applied. They also ensure that a person’s pensionable service is treated cumulatively so that those with tranches of compensation payable from the same source at different dates can benefit from the long service cap. These amendments ensure that the long service cap operates in line with the policy intent where a member has compensation from more than one source or from one source, but entitlement arises at different dates.

3.5 In addition, the Regulations allow the PPF to discharge as a lump sum an individual’s money purchase benefits where the total value of those benefits is below £10,000 (in line with the revised tax maximum).

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 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 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 have no impact on costs 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 Protection Fund (Modification) (Amendment) Regulations 2017 (S.I. 2017/324) which were made on 8th March 2017 to come into force on 6th April 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. It was, therefore necessary to make the Regulations during the period of interregnum.