

EXPLANATORY MEMORANDUM TO
THE CONTRACTING-OUT (TRANSFER AND TRANSFER PAYMENT)
(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2018

S.R. 2018 No. 51

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, 16(1)(a) and (3), 33A and 177(2) to (4) 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 restore the pre-abolition status quo that existed before contracting-out ended. They enable transfers of pension scheme members with contracted-out rights to take place in certain circumstances, without member consent, to newly established salary-related occupational pension schemes that have never been contracted-out (subject to the trustee receiving the necessary actuarial certificate).

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, without their consent, to either a contracted-out scheme or a formerly contracted-out scheme. Following the abolition of contracting-out, a transfer of scheme members without their consent to a newly established scheme was no longer possible, because the new scheme could not become a formerly contracted-out scheme.
- 3.3 These Regulations will enable transfers of scheme members, without their consent to newly established schemes that have never been contracted-out in specified circumstances. Such transfers could occur for a variety of reasons, for example, to consolidate a number of small schemes to benefit from economies of scale and reduce management and administration costs.

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 2018 (S.I. 2018/234) which

come into force on 6th April 2018. 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 allow certain transfers to occupational pension schemes that have not previously been contracted-out. It was, therefore necessary to make the Regulations during the period of interregnum.