These notes refer to the Pensions (No. 2) Act (Northern Ireland) 2008 (c.13) which received Royal Assent on 15 December 2008

Pensions (No. 2) Act (Northern Ireland) 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 2 - Simplification

***Section 79*: Abolition of safeguarded rights**

Where, on divorce or dissolution of a civil partnership, rights to a pension are shared and those rights include contracted-out rights, the law as it stands treats the contracted-out rights in a different way from the other shared rights. They are known as "safeguarded rights" and are subject to various restrictions. *Section 79* abolishes these restrictions. Shared rights that derive from contracted-out rights will in future be treated in the same way as other shared rights.

***Section 80*: Revaluation of accrued benefits etc**

This section introduces *Schedule 1* which amends the method of revaluing the accrued pension benefits of deferred members in certain occupational pension schemes and also amends related arrangements applying to pension compensation payable by the Pension Protection Fund.

The amended revaluation arrangements do not apply to revaluation periods ending before the section comes into operation.

***Section 81*: Consolidation of additional pension**

Sections 81 to *83* and *Schedules 2* and *3* change the method of calculating earnings-related components of the Additional State Pensions for people who reach State Pension age after 5 April 2020. In addition to their basic State Pension, pensioners can have accrued rights under three earnings-related state schemes:

- the Graduated Retirement Benefit scheme – from 1961 to 1975;
- State Earnings Related Pension Scheme – from 1978 to 2002;
- State Second Pension – accrued from 2002.

State Second Pension was reformed by the Pensions Act (Northern Ireland) 2008. From the Flat Rate Introduction Year, State Second Pension will start to accrue on a flat-rate basis – the earnings-related element will be gradually phased out and will cease to accrue from around 2030.

Section 81 amends section 45 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 to provide the mechanism by which Additional Pension in respect of years before the Flat Rate Introduction Year will be calculated for people reaching State Pension age after 5 April 2020. *Subsection (4)* provides that their weekly rate of Additional Pension will be the consolidated value of their Graduated Retirement Benefit, State Earnings Related Pension and State Second Pension accruals, "the consolidated amount", plus any flat rate accruals built up after the Flat Rate Introduction Year.

Subsection (5) introduces *Schedule 2*. This inserts new Schedule 4C into the Social Security Contributions and Benefits (Northern Ireland) Act 1992 which sets out how the consolidated amount is to be calculated.

Subsection (6) provides for the Graduated Retirement Benefit element of the consolidated pension to be omitted when carrying out the calculation to offset Additional Pension from incapacity age addition entitlement. This arises where a person was getting an age addition of incapacity benefit before they reach pension age.

Subsection (7) restricts the calculation of Graduated Retirement Benefit under existing rules to those who reach state pension age before 6 April 2020.

Section 82: Effect of entitlement to guaranteed minimum pension

Section 82 amends the Pension Schemes (Northern Ireland) Act 1993 to cater for those who have been in contracted-out employment for all or part of the period up until 5 April 1997 and are entitled to one or more Guaranteed Minimum Pensions. It introduces a method for calculating the reduction to be made from Additional Pension in respect of the years before the Flat Rate Introduction Year for those who reach State Pension age after 5 April 2020.

Subsection (2) amends section 42 of the Pension Schemes (Northern Ireland) Act 1993, inserting new subsections (1A) and (1B), so that the method of calculating a reduction under the provisions in section 42(1), do not apply where someone reaches State Pension age after 5 April 2020.

Subsection (3) inserts a new section 42A into the Pension Schemes (Northern Ireland) Act 1993.

Subsection (1) of new section 42A provides for the method of calculating the reduction from Additional Pension where someone reaches State pension age after 5 April 2020 and is entitled to one or more Guaranteed Minimum Pensions.

Subsection (2) of new section 42A provides that the calculation should be made in accordance with regulations.

Subsection (3) of new section 42A specifies that the reduction calculated under the regulations should not exceed the amount of the Additional Pension attributable to periods before the principal appointed day.

Subsection (4) of new section 42A provides that the effect of the reduction made under the regulations should be actuarially equivalent to the effect of the reduction that would have been made under section 42(1) of the Pension Schemes (Northern Ireland) Act 1993 had section 42(1A) not been inserted.

Subsection (5) of new section 42A requires the Department to make corresponding provision for Northern Ireland where the Secretary of State makes regulations under section 46A(8) of the Pension Schemes Act 1993 specifying how actuarial equivalence is to be determined.

Section 83: Additional State Pension etc: minor and consequential amendments

Section 83 introduces *Schedule 3* which contains minor and consequential amendments relating to the Additional Pension.

Section 84: State pension credit: extension of assessed income period for those aged 75 or over

An assessed income period is a specified period during which time the State Pension Credit customer does not need to report changes to his or her retirement provision. Currently the maximum length of an assessed income period is five years (except under transitional provisions).

Subsection (2) substitutes subsection (1) in section 9 of the State Pension Credit Act (Northern Ireland) 2002 so that, from 6 April 2009, claimants aged 75 or over will generally be given an indefinite assessed income period. Exceptions to this general rule are set out in section 9 so that, for example, an indefinite assessed income period may be brought to an end early on the occurrence of certain circumstances, such as where the claimant ceases to be treated as a member of a couple.

Under *Subsection (4)*, which inserts a new subsection (6) into section 9, if the claimant has an assessed income period of five years or more which expires when he or she is aged 80 or over, then the assessed income period will also be extended indefinitely. Again, this indefinite assessed income period may be brought to an end early in certain circumstances. This provision is temporary as five years after its coming into force every assessed income period that has been set for a claimant over 80 will be an indefinite assessed income period.

Section 85: Contracting-out: abolition of all protected rights

Section 85 repeals the main sections of the Pension Schemes (Northern Ireland) Act 1993 which deal with protected rights. This includes sections that were inserted by the Pensions Act (Northern Ireland) 2008 which provide for survivor benefits. The Pensions Act (Northern Ireland) 2008 repealed several sections of the Pension Schemes (Northern Ireland) Act 1993 which dealt with protected rights; *section 85* repeals most of the remainder. This section, taken with the Pensions Act (Northern Ireland) 2008 changes and *section 113(2)*, will ensure that all rules for past protected rights are removed at the same time as contracting out on a defined contribution basis is abolished.