These notes refer to the Pensions Act (Northern Ireland) 2015 (c.5) which received Royal Assent on 23 June 2015

Pensions Act (Northern Ireland) 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – State Pension

Section 4: Entitlement to state pension at transitional rate

Section 5: Transitional rate of state pension

Section 6: Recalculation and backdating of transitional rate in special cases

Schedule 1: Transitional rate of state pension: calculating the amount

Schedule 2: Transitional rate of state pension: up-rating

These sections make transitional provision for pension entitlement for those who reach pensionable age on or after the date the new state pension is introduced and who have qualifying years attributable to tax years prior to introduction.

The provision is transitional because at some point in the future people will only have qualifying years attributable to the period after the new state pension is introduced and their entitlement will be calculated under the rules set out in sections 1 to 3. The persons unaffected by the transitional provision will be those who:

- are under the age of 16 when the new state pension is introduced, so they will not have yet entered the National Insurance scheme;
- arrive in the UK for the first time after the new scheme is introduced; or
- for some reason have not paid, or received credits, into the National Insurance scheme or have not made enough contributions to achieve a 'qualifying year' before the new scheme is introduced.

The calculation of the rate of state pension for people who have qualifying years attributable to tax years prior to introduction (called "transitional rate" here) is set out in Schedule 1. The calculation takes into account the National Insurance history of the person before the new state pension scheme starts when determining any future pension entitlement.

Under the current rules a person may become entitled to different components of retirement pension depending on when and at what level contributions have been made. Provided that sufficient contributions are made at the lower earnings limit for National Insurance in a tax year, that year will be a qualifying year for basic state pension purposes. Earnings-related contributions made between 1961 and 1975 provide entitlement to graduated retirement benefit. Since 1978 contributions that are made on earnings above the annual lower earnings limit in a tax year are relevant for entitlement to the additional pension.

The first step in the calculation of the transitional rate involves working out a person's entitlement under current scheme rules, as if he or she had reached pensionable age on the day the new state pension scheme is introduced. This provides a snapshot in time of any basic state pension, additional pension and graduated retirement benefit to which he or she would have been entitled.

The second step involves working out entitlement under the new state pension rules had they applied before the start date. This valuation is based on 'pre-commencement' qualifying years, i.e. any years that would have been qualifying years before the start date of the state pension. This includes pre-1978 reckonable years, as defined in the relevant transitional regulations *(section 4(4)(b))*. Where a person has 35 or more pre-commencement qualifying years at the start date the valuation would be based on the maximum state pension amount payable at that date. Otherwise it would be based on a reduced rate matching the number of pre-commencement qualifying years accrued at that date.

In both of these calculations an amount to reflect contracting-out under the current scheme is deducted. However, where after the start date a person leaves his or her contracted-out pension scheme and under the rules of the scheme is not entitled to a contracted-out pension, his or her transitional rate would be re-calculated as if he or she had never been contracted out (section 6).

The third step requires a comparison of the two calculations with the more beneficial used as the starting basis of a person's transitional rate (their foundation amount). This foundation amount may exceed the full rate of state pension. This will be the case where the person, but for the introduction of the new state pension, would have been entitled to a significant amount of additional pension.

If at the start date the person has a foundation amount lower than the full rate of state pension, he or she can continue to add qualifying years to his or her entitlement – even if he or she already had 35 or more qualifying years before the start date – up to a maximum number that would provide entitlement to the full rate of state pension.

A minimum number of qualifying years will also apply to the transitional rate. This number will be specified in regulations, and will not be more than ten years.

Schedule 1 also provides for the revaluation of the foundation amount prior to pensionable age. The value of the foundation amount up to the full rate of state pension is to be re-valued by earnings or higher (as with the state pension rate).

Any excess over that rate will be re-valued in line with the annual increase in the general level of prices.

Schedule 2 provides for the up-rating of the transitional rate (annual increases to the pension in payment). The value of the transitional rate up to the full rate of state pension is to be up-rated by earnings or higher. Any excess will be up-rated in line with the annual increase in the general level of prices.