

## **EXPLANATORY MEMORANDUM**

### **THE SOCIAL SECURITY (AGE-RELATED PAYMENTS) REGULATIONS (NORTHERN IRELAND) 2013**

**S.R. 2013 No. 277**

#### **1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Jobseekers (Northern Ireland) Order 1995, the Social Security (Northern Ireland) Order 1998, the State Pension Credit Act (Northern Ireland) 2002 and the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1 These regulations make amendments to the Income-Related Benefit (IRB) regulations to ensure that ex-gratia payments made by Treasury to eligible Equitable Life annuitants are disregarded for the purposes of calculating a person's capital under those regulations. The regulations being amended are:
  - the Income Support (General) Regulations (Northern Ireland) 1987;
  - the Jobseeker's Allowance Regulations (Northern Ireland) 1996;
  - the State Pension Credit Regulations (Northern Ireland) 2003;
  - the Housing Benefit Regulations (Northern Ireland) 2006; and
  - the Employment and Support Allowance Regulations (Northern Ireland) 2008;

#### **3. Background**

- 3.1 The Equitable Life is a mutual insurance company owned by its members, which ran into financial difficulties in the 1990s. In July 2008, the Parliamentary Ombudsman published a report, "Equitable Life: a decade of regulatory failure". The report said that there was evidence of "serial regulatory failure" on the part of the Government in relation to its regulation of Equitable Life in the period before 31 December 2001 and recommended the Government set up a compensation scheme.
- 3.2 In light of the report and the Ombudsman's recommendation "to consider the potential impact on the public purse of any payment of compensation", the Government decided that £1.5 billion should be made available for the

payments scheme. The Government subsequently passed the Equitable Life (Payments) Act 2010 to establish the Equitable Life Payment Scheme.

- 3.3 With-profits annuitants (WPAs) who bought their policies before 1 September 1992 were excluded from the Scheme on the grounds that they did not suffer loss as a result of government maladministration in the regulation of Equitable Life. However, in the Budget 2013, the Chancellor recognised the financial pressures that this particular group of elderly policyholders are under, and announced a separate package of ex-gratia payments to be made to them.
- 3.4 The Equitable Life (Payments) Act 2010 contains powers to make compensation payments in accordance with the Equitable Life Payments Scheme. However, this Act does not enable ex gratia payments to be made to pre 1 September 1992 WPAs. The Age-Related Payments Act 2004 however contains provisions suitable to facilitate the ex-gratia payments to persons aged over 60 through a broad regulation-making power.
- 3.5 It was necessary for Great Britain to make a Transfer of Functions Order to give Treasury the primary power to make the necessary regulations to make these non-social security related ex-gratia payments. The Age Related Payments Regulations 2013 (SI 2013/2980) is the vehicle by which this is achieved.
- 3.6 Regulation 5 of the Age-Related Payments Regulations 2013 also achieves the objective in Great Britain of disregarding these ex-gratia payments for social security benefit purposes under appropriate legislative provisions contained in the Age Related Payments Act 2004. There are no powers to disregard these ex-gratia payments through similar legislative provisions in Northern Ireland as the powers under the equivalent primary legislation are only exercisable where the Department is making the payments. However, these payments will be made by the UK Government through Treasury.
- 3.7 These regulations will therefore provide for similar policy intent to that being provided for in Great Britain by regulation 5 of the Age Related Payments Regulations 2013. This is achieved by amending each of Northern Ireland's income-related benefit Regulations to provide that ex-gratia payments made by Treasury to eligible Equitable Life annuitants are disregarded for the purposes of calculating a person's capital under those regulations.

#### **4. Consultation**

- 4.1 The Social Security Advisory Committee were consulted regarding the proposals for these regulations in accordance with section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 and were in agreement that they did not require them to be formally referred.

- 4.2 A formal consultation on these regulations was not considered necessary as the changes are designed to benefit a very small number of claimants by ensuring that the ex-gratia payments made by Treasury to eligible Equitable Life annuitants are disregarded for the purposes of calculating entitlement to state funded means tested support through a number of income-related benefits.

## **5. Equality Impact**

- 5.1 The changes proposed do not provide a new benefit or service but amend various income-related social security Statutory Rules.
- 5.2 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity. In light of this, the Department 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 do not impose any new costs on business, charities or voluntary bodies.

## **7. Financial Implications**

- 7.1 There are no significant costs to the Department to implement these proposals.

## **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 the Rule—
- (a) is not incompatible with any of the Convention rights,
  - (b) is not incompatible with Community law,
  - (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
  - (d) does 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 In line with the principle of parity in social security issues as provided for in section 87 of the Northern Ireland Act 1998, the income-related benefit regulations are amended to provide that ex-gratia payments made by Treasury to eligible Equitable Life annuitants are disregarded for the purposes of calculating a person's capital under those regulations.