EXPLANATORY MEMORANDUM TO

THE EQUALITY ACT 2010 (SEX EQUALITY RULE) (EXCEPTIONS) REGULATIONS 2010

2010 No. 2132

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

The Equality Act 2010 requires occupational pension schemes to have a 'sex equality rule' for the equal treatment of men and women in occupational pension schemes. This instrument makes provision to except from the sex equality rule certain rules, practices, actions and decisions relating to occupational pension schemes.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Context

The Equality Act 2010 replaces the equal treatment rule at sections 62-66 of the Pensions Act 2005 (that requires men and women to be treated equally in terms of the provision of occupational pensions) with an analogous "sex equality rule". These sections will be revoked when the Equality Act comes into force on 1 October 2010.

This instrument replicates for the sex equality rule those matters excepted from the equal treatment rule.

5. Territorial Extent and Application

This instrument applies to Great Britain. Separate provisions will be made for Northern Ireland.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 The Pensions Act 1995 set out requirements for the equal treatment rule, which required men and women to be treated equally in terms of occupational pensions.

7.2 Regulations 13-15 of the Occupational Pension Schemes (Equal Treatment) Regulations 1995 (SI 1995/3183) ("the 1995 Regulations") set out a number of statutory exceptions to the rule.

7.3 The Equality Act 2010 replaces the 'equal treatment rule' with an equivalent 'sex equality rule'. The Equality Act 2010 (Sex Equality Rule) (Exceptions) Regulations 2010 reproduce the provisions of Regulations 13-15 of the 1995 Regulations concerning the equalisation of benefit in bridging pensions and indexation, and the use of gender specific actuarial factors.

- *Consolidation*

7.4 This instrument replaces rather than amends an existing instrument.

8. Consultation Outcome

No specific consultation was undertaken on this instrument as its provisions are not new, but have been carried forward from existing Regulations. There is no requirement in the Equality Act 2010 for these provisions to be consulted on.

9. Guidance

No guidance has been specifically published alongside this instrument as provisions will be reflected in general guidance on the Equality Act. The first set of summary guidance on the Equality Act was published on 5 July 2010 for employers, employees, the voluntary sector, individuals and public sector organisations. This will be followed by further "quick-start" guides which focus on specific provisions. (e.g. gender reassignment; disability; private clubs), again for different audiences. This will be backed by comprehensive and detailed guidance produced by the Equality and Human Rights Commission, together with statutory codes which will reflect provisions in the Equality Act and its supporting legislation.

10. Impact

10.1 There is no new impact on business and civil society organisations arising from this instrument as it replicates existing legislation.

10.2 The impact on the public sector is negligible.

10.3 A full impact assessment has not been prepared for this instrument.

11. Regulating small business

The legislation applies to small business. However, this instrument imposes no new burdens as it carries forward existing provisions.

12. Monitoring & review

The Government Equalities Office is developing a project to establish an evaluation framework for the Act as a whole, including establishing a "before/after" baseline against which to measure change. This will enable relevant data to start to be collected. It is intended to complete a full evaluation 4-5 years following enactment.

13. Contact

Angela Perera at the Department for Work and Pensions Tel. 020 7449 7389 or email: angela.perera@dwp.gsi.gov.uk can answer any queries on the instrument.