EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL PENSION SCHEMES (CLIMATE CHANGE GOVERNANCE AND REPORTING) (AMENDMENT, MODIFICATION AND TRANSITIONAL PROVISION) REGULATIONS (NORTHERN IRELAND) 2022

S.R. 2022 No. 209

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 Articles 41A, 41B and 166 (1) to (3) of the Pensions (Northern Ireland) Order 1995 and is subject to the negative resolution procedure.

2. Purpose

2.1 These Regulations introduce requirements for trustees of certain occupational pension schemes to calculate and disclose a portfolio alignment metric describing the extent to which the scheme's assets are aligned with the climate change goal of limiting the increase in the global average temperature to 1.5°C above pre-industrial levels. The requirements will apply to trustees from 1st October 2022 according to the value of relevant scheme assets, or whether the scheme has been authorised for certain purposes.

3. Background

3.1 Paragraph 12 of Schedule 11 to the Pension Schemes Act 2021 inserts Articles 41A to 41C into the Pensions (Northern Ireland) Order 1995. Those Articles provide for regulations to impose requirements on trustees of occupational pension schemes with a view to securing that there is effective governance of the scheme with respect to the effects of climate change.

3.2 In line with the Task Force on Climate-related Financial Disclosures (TCFD) recommendations, the Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations (Northern Ireland) 2021 ("the Climate Change Regulations") aim to ensure trustees embed effective climate change risk governance activities and report publicly on how they have done so. This includes requirements relating to governance strategy and risk management, requirements to select and calculate climate-related metrics and requirements for trustees to set and measure performance against targets.

3.3 These Regulations introduce requirements reflecting updated recommendations of the TCFD. They amend the Climate Change Regulations to require trustees of schemes within scope of the Climate Change Regulations to calculate and disclose a portfolio alignment metric describing the extent to which the scheme's assets are aligned with the climate change goal of limiting the increase in the global average temperature to 1.5ºC above pre-industrial levels. They also include modification and transitional provisions.

3.4 These Regulations apply to trustees within scope of the Climate Change Regulations, including:

- trustees of a trust scheme (an occupational pension scheme established under a trust) which had relevant assets equal to, or exceeding, £5 billion on their first scheme year end date which falls on or after 1st March 2020, and who remain subject to the requirements in Part 1 of the Schedule to the Climate Change Regulations on 1st October 2022;
- trustees of a trust scheme which has relevant assets equal to, or exceeding, £1 billion on a scheme year end date which falls on or after 1st March 2021; and
- trustees of all authorised master trust schemes and authorised collective defined contribution schemes.

3.5 In complying with the requirements of the Climate Change Regulations trustees or managers must have regard to guidance published from time to time by the Department. The guidance "Governance and reporting of climate change risk: guidance for trustees of occupational schemes" is available from the Department for Communities, Social Security Policy, Legislation and Decision Making Services, Level 6, Causeway Exchange, 1-7 Bedford Street, Belfast BT2 7EG or from the website: https://www.communities-ni.gov.uk/articles/pension-information.

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 The Pension Schemes Act 2021 was subject to an 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 completed for the Climate Change Regulations. These Regulations do not require a Regulatory Impact Assessment as they have no significant additional impact on costs on business and there is no, or no significant, impact on 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 is content that these Regulations comply with section 24 of the Northern Ireland Act 1998 (Convention rights, etc.).

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The Great Britain Instrument is the Occupational Pension Schemes (Climate Change Governance and Reporting) (Amendment, Modification and Transitional Provision) Regulations 2022 (S.I. 2022/733) which comes into force on 1st October 2022. 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.