EXPLANATORY MEMORANDUM TO

THE PENSION PROTECTION FUND AND OCCUPATIONAL PENSION SCHEMES (MISCELLANEOUS AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 2013

S.R. 2013 No. 213

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 Articles 68(2)(e) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995 and paragraph 25A(1) of Schedule 6 to the Pensions (Northern Ireland) Order 2005 and is subject to the negative resolution procedure.

2. Purpose

2.1 These Regulations amend the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 to clarify one of the conditions that must be satisfied to enable a person to postpone payment of compensation due in respect of an occupational pension scheme. The condition is that a person must not have received any pension or compensation in respect of the scheme for which the Pension Protection Fund has assumed responsibility.

2.2 These Regulations also amend the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006 to allow trustees to modify their existing scheme rules where they consider it would be reasonable to do so to take account of the changes to State Pension age.

3. Background

3.1 The Pensions Act 2004 set up, on a UK-wide basis, the Pension Protection Fund to provide compensation for members of eligible occupational pension schemes, where the sponsoring employer is insolvent and the scheme has insufficient assets to pay benefits at the Fund compensation levels. The compensation is funded through annual pension protection levies imposed by the Fund and charged to all qualifying defined benefit occupational pension schemes.

3.2 When the Board of the Pension Protection Fund assumes responsibility for a scheme it pays eligible persons pension compensation in the form of period payments and/or a lump sum.

3.3 The Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 set out the conditions that must be satisfied for a person to be eligible to postpone payment of compensation.

3.4 Some defined benefit occupational pension schemes pay members who retire before State Pension age a higher pension at the outset, which is then reduced at State Pension age to take account of the payment of State Pension. The aim is to allow the member to receive a similar overall income in retirement, regardless of when State Pension becomes payable. These arrangements are often referred to as "bridging" pensions.

3.5 The Pensions Act (Northern Ireland) 2012 accelerated the timetable both for equalisation of State Pension age for men and women at age 65, and extending it beyond age 65. The impact of higher State Pension age on an individual scheme will depend on the precise terms of its rules. The possibility of a change to State Pension age may not have been considered when some schemes offering bridging pensions were established, and trustees will now need to consider whether (and if so how) their scheme's rules should be adjusted to take account of this. The rules of some schemes may not allow their terms to be amended easily in these circumstances, or even at all. The trustees would then be unable to modify the scheme even if they consider this necessary in order to take account of later State Pension age.

3.6 These Regulations introduce a power for trustees to modify their scheme, by resolution, where they consider that it would be reasonable for them to do so in order to take account of the changes to State Pension age, and the related changes to the Finance Act 2004.

4. Consultation

4.1 There is no requirement to consult on these Regulations as 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 Proposals for the Pensions Act (Northern Ireland) 2012 were subject to a full Equality 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. As the amendments are technical in nature, the proposals would have little implication for any of the section 75 categories. In light of this, the Department has concluded that the proposals 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 carried out on the proposals for the Pensions Act (Northern Ireland) 2012. These Regulations do not require a Regulatory Impact Assessment as they have no direct impact on costs on business, 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 has considered section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations –

(a) are not incompatible with any of the Convention rights,

(b) are not incompatible with Community law,

(c) do not discriminate against a person or class of person on the ground of religious belief or political opinion, and

(d) do 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 The corresponding Great Britain Regulations are the Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/1754) which come into force on 1st October 2013. Parity of timing and substance is an integral part of the maintenance of single systems of social security, child support and pensions provided for in section 87 of the Northern Ireland Act 1998.