**EXPLANATORY MEMORANDUM TO**

**THE PENSION PROTECTION FUND (STATE AID) (AMENDMENT) (EU EXIT) REGULATIONS (NORTHERN IRELAND) 2020**

**S.R. 2020 No. 318**

## 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 paragraph 1(1) of Schedule 2, and paragraph 21 of Schedule 7, to the European Union (Withdrawal) Act 2020 and is subject to the negative resolution procedure.

## 2. Purpose

2.1 These Regulations make amendments to legislation related to the Pension Protection Fund consequential on EU Exit.

## 3. Background

3.1 The PPF which operates across Great Britain and Northern Ireland was established to provide a safety net for members of defined benefit schemes. It provides compensation for members of eligible occupational pension schemes, where the sponsoring employer is insolvent and the scheme has insufficient assets to pay benefits at PPF compensation levels. The PPF is funded via a combination of transferred scheme funds, recoveries from insolvent employers, investment returns and a levy on eligible schemes.

3.2 In consequence of EU Exit, legislation is being brought forward to revoke references to EU State aid in domestic legislation, effective on completion of the implementation period (IP) on 31st December 2020. This affects PPF Regulations.

3.3 The Regulations governing the PPF make references to EU State aid in –

- the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations (Northern Ireland) 2005;
- the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005;
- the Payment of Pension Levies for Past Periods Regulations (Northern Ireland) 2015.

3.4 The relevant PPF provisions were in response to an EU Commission ruling in 2009 that the exemption from the PPF levy granted to certain schemes, for example, from formerly nationalised industries, amounted to unlawful State aid. These schemes therefore, despite originally being considered exempt from the levy on the grounds that they had what is known as a Crown guarantee, pay the PPF levy.

3.5 As an interim measure, these Regulations will "save" the current PPF provisions, effectively preserving the status quo and leaving the relevant schemes liable for the PPF levy pending the outcome of the determination of long-term policy in this area.

## 4. Consultation

4.1 There is no requirement to consult on these Regulations.

## 5. Equality Impact

5.1 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 and as they merely make technical amendments to maintain the status quo, has concluded that they 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 have no significant 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 provisions are contained in paragraphs 7, 9 and 14 of Schedule 2 to the State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470) which come into force on 31st December 2020 ("IP completion day"). 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.