EXPLANATORY MEMORANDUM TO

THE PENSIONS (2005 ORDER) (CODES OF PRACTICE) (REVOCATION) ORDER (NORTHERN IRELAND) 2024

S.R. 2024 No. 131

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 Order is made under Article 87(2) of the Pensions (Northern Ireland) 2005 and is subject to the negative resolution procedure.

2. Purpose

2.1 The purpose of this Order is to revoke ten of the Pensions Regulator's ("the Regulator") existing codes of practice ("the old codes"). It also revokes four earlier versions of codes 5, 6, 7 and 13 which were not revoked when new versions were issued.

2.2 The ten codes which are being revoked are being replaced by a new code of practice ("the new code") which provides more accessible guidance for pension schemes and incorporates changes introduced by the Occupational Pension Schemes (Governance) (Amendment) Regulations (Northern Ireland) 2018 ("the Regulations"). The new code was laid with the Northern Ireland Assembly on 26th January 2024.

3. Background

3.1 Codes of practice provide practical guidelines in relation to the exercise of functions under pensions legislation and set out the standards of conduct and practice expected of those who exercise such functions. Since 2005 the Regulator has published sixteen codes of practice.

3.2 An assessment of certain existing codes of practice issued by the Regulator was carried out to take account of recent legislative changes introduced by the Regulations. That assessment identified issues related to outdated content, duplication, poor user experience and a lack of user awareness.

3.3 The new code combines ten codes of practice issued by the Regulator, which has been restructured and updated to give practical guidance on matters relating to the governance of all types of schemes. The new code will better meet the needs of trustees and scheme managers and their advisers and support modern scheme governance.

3.4 Statutory codes of practice are guidance rather than law but are laid before the Assembly. They are being updated and consolidated into a new code.

3.5 The consolidation of the old codes into one new code makes it easier for those responsible for scheme governance and administration to understand what is expected of them.

3.6 This Order revokes the old codes and four earlier issues as they are being replaced by the new code. The new code takes account of feedback from the industry on the content of the code and advances in best practice since the old codes were issued, and explains the recent legislative requirements set out in the Regulations. It is also presented in a new topic focused way, designed to be read as modules on the internet rather than as a single document.

4. Consultation

4.1 There is no requirement to consult on this Order. However, the Regulator consulted on the new code between 17th March 2021 and 26th May 2021. The consultation was principally aimed at anyone to whom the legislation applies or is directly relevant. This included trustees, scheme managers and professional advisors such as actuaries and service providers. The Regulator received 103 responses to its consultation. The Regulator published an interim response to the consultation on 24th August 2021 and published final response the day the new code was laid.

4.2 As a result of this consultation, the Regulator made changes to several sections of the new code. Some changes were made to make it clearer which schemes each module applies to. In addition, certain sections of the new code have been redesigned and some content has been re-introduced from existing codes of practice. Most changes, however, have been minor and designed to respond to matters of interpretation or consistency.

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 this Order. 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 This Order does not require a Regulatory Impact Assessment as it imposes no 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 is content that this Order complies 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 corresponding GB Statutory Instrument is the Pensions Act 2004 (Codes of Practice) (Revocation) Order 2024 (S.I. 2024/273). 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.