EXPLANATORY MEMORANDUM TO

THE PENSIONS (INSTITUTE AND FACULTY OF ACTUARIES AND CONSULTATION BY EMPLOYERS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2012

S.R. 2012 No. 113

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 sections 15(4)(c), 69(4)(b), 93(1), 97AF(1), 97D(4)(b) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993, Articles 37(3)(a), 47(5)(b), 67C(7)(a)(ii), 75(5) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995 and Articles 19(10), 127(11)(a)(ii)(a), 140(6), 162(2), 236(1) and (2), 237(1) and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005 and is subject to the negative resolution procedure.

2. Purpose

2.1 These Regulations amend the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006 to ensure that employers are required to consult members in an occupational pension scheme before the rate at which pensions are increased (indexed) or revalued is changed, unless the change is beneficial for the members. They also replace references to the Institute of Actuaries and to the Faculty of Actuaries in a number of sets of Regulations with references to the Institute and Faculty of Actuaries and make a consequential amendment.

3. Background

3.1 Consultation by employers

From April 2011, the Consumer Prices Index (CPI) is used as the basis for increasing most benefits and public sector pensions. The CPI is also used to calculate the statutory minimum for the indexation and revaluation of private sector occupational pensions, and to determine increases for occupational pensions and payments made by the Pension Protection Fund and the Financial Assistance Scheme.

3.2 The use of the CPI to measure price increases affects occupational pension schemes in different ways depending on the rules of the particular scheme, for example, some scheme rules provide that indexation is in line with the Retail Prices Index.

3.3 It is anticipated that some schemes may propose changes to their rules following the adoption of the CPI as the official index. Existing legislation requires large employers (with 50 or more employees) to consult affected members about a proposed significant change (known as a "listed change") to their pension scheme for at least 60 days before implementing the change. This requirement to consult gives affected members the opportunity to have their say about future changes to the pension scheme and to ensure they are fully aware of the changes and implications for their future pension provision. At present, changes to indexation and revaluation rules are not included in the "listed changes" for the purpose of the employer consultation provisions.

3.4 The Regulations provide for changes to scheme rules on indexation or revaluation to be included as "listed changes" for the purpose of the employer consultation provisions. This means that if a scheme proposes to change the existing scheme rules to use the CPI for indexation and revaluation in the future, the employer would have to consult members before doing so, unless the outcome would be beneficial for members.

3.5 Institute and Faculty of Actuaries
The Institute of Actuaries and the Faculty of Actuaries in Scotland have merged to form a new legal entity called "The Institute and Faculty of Actuaries". In consequence of the merger, a number of references in pensions legislation are now out of date.

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 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 These Regulations do not require a Regulatory Impact Assessment as they have only a negligible 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 Pensions (Institute and Faculty of Actuaries and Consultation by Employers – Amendment) Regulations 2012 (S.I. 2012/692) which come into force on 6th April 2012. 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.