EXPLANATORY MEMORANDUM TO

THE STATE PENSION DEBITS AND CREDITS (REVALUATION) (NO.2) ORDER (NORTHERN IRELAND) 2020

S.R. 2020 No. 297

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 sections 130AD and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992 ("the Administration Act") and is subject to the negative resolution procedure.

2. Purpose

2.1. The Pensions Act (Northern Ireland) 2015 ("the 2015 Act") introduced a new State Pension for people reaching State Pension age on or after 6th April 2016. The 2015 Act also introduced changes to the arrangements for Pension Sharing on Divorce.

2.2. The State Pension Debits and Credits (Revaluation) (No.2) Order (Northern Ireland) 2020 revalues the resulting new State scheme pension debits and credits to reflect price increases since the debit or credit was created.

2.3. This Order is made under section 130AD of the Administration Act which provides that, where the Secretary of State makes an Order under section 148AD of the Social Security Administration Act 1992 ("the 1992 Act") to increase the rate of credits and debits in Great Britain, the Department may make corresponding provision for Northern Ireland.

3. Background

3.1. The Welfare Reform and Pensions (Northern Ireland) Order 1999 introduced provisions to make additional State Pension – the second-tier component of the old State Pension system known as SERPS or State Second Pension – to be shareable in divorce proceedings. Accruals of additional State Pension ceased on 6th April 2016 with the introduction of the new State Pension. The part of a person's new State Pension based on their pre April 2016 contribution record that exceeds the full rate of the new State Pension as at 6th April 2016 is commonly referred to as a "protected payment". Under the new State Pension, a person's protected payment may be shareable in divorce proceedings where those proceedings started on or after 6th April 2016.

3.2. Where a Pension Sharing Order is made, it will provide for a percentage split of the protected payment to be shared between the two parties. The National Insurance record of the person whose protected payment is to be shared ("the transferor") will be noted with a debit and the record of the person who will benefit from the share ("the transferee") will be noted with a corresponding credit.

3.3. Where a Pension Sharing Order takes effect before either or both parties have reached their respective State Pension ages, the debit and/or credit will be revalued according to the percentage increase in the general level of prices. At State Pension age, the transferor's protected payment will be reduced by the debit and the transferee's new State Pension will be increased by a credit of the same amount as the debit.

3.4. Section 148AD of the 1992 Act requires the Secretary of State, in each tax year, to review the general level of prices in Great Britain. If it appears that relevant debits or credits have not maintained their value in relation to the general level of prices the Secretary of State is required to make an Order to increase them by such a percentage as deemed necessary to restore their value.

3.5. Paragraph 7 of Schedule 11 to the 2015 Act inserted section 130AD into the Administration Act. Section 130AD of the Administration Act provides that where the Secretary of State makes an Order under section 148AD of the 1992 Act then the Department may make corresponding provision for Northern Ireland. The Department has no power to set different percentages.

3.6. The Order increases debits and credits created in 2020-21 by 0.5 per cent.

4. Consultation

4.1. There is no requirement to consult on this Order.

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 and, as they merely discharge the Department's statutory duty to revalue State Pension debits and credits, has concluded that they do not have any 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. The Order does not require a Regulatory Impact Assessment as it does not impose a cost on business, charities or voluntary bodies.

7. Financial Implications

7.1. The Order imposes no new costs. The costs are already provided for in the Government's expenditure plans for the new State Pension alongside the costs for up-rating.

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 this Order –

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

(b) is not incompatible with Community law,

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

(d) does 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 Order is the State Pension Debits and Credits (Revaluation) (No. 2) Order 2020 (S.I. 2020/1391) which comes into force on 24th December 2020 for the purposes of making an advance award of State Pension for persons reaching pensionable age on or after 13th April 2021 and on 12th April 2021 for all other purposes. 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.