EXPLANATORY MEMORANDUM

THE STATE PENSION DEBITS AND CREDITS (REVALUATION) ORDER (NORTHERN IRELAND) 2017

S.R. 2017 No. 61

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

2. Purpose

2.1 The Pensions Act (Northern Ireland) 2015 ("the 2015 Act") introduces a new State pension for people reaching State pension age from 6 April 2016. The 2015 Act also introduced changes to the arrangements for Pension Sharing on Divorce. The State Pension Debits and Credits (Revaluation) Order (Northern Ireland) 2017 allows for the revaluation of new State scheme pension credits and debits that arise when a pension sharing order is made by the courts where divorce proceedings commence from 6 April 2016.

3. Background

3.1 Pension Sharing on Divorce was introduced in the Welfare Reform and Pensions (Northern Ireland) Order 1999 ("the 1999 Order"). Under the 1999 Order State pension was shareable in divorce proceedings. Under the 2015 Act additional State pension is withdrawn. However, transitional arrangements have been made so that people with pre-commencement qualifying years who have an amount in excess of the full new State pension at 6 April 2016 receive that amount at State pension age. The amount, the protected payment, is shareable in divorce proceeding where those proceedings start on or after 6 April 2016.

3.2 Paragraph 12 of Schedule 11 to the 2015 Act amends the 1999 Order by inserting new Article 46A which allows for pension credits and debits to be created in respect of the new State pension as a result of a pension sharing order. Sections 13 and 14 of, and Schedules 8 and 10 to, the 2015 Act provide that the person subject to a debit ("the transferor") has their protected payment reduced by an amount that will exactly equal the amount paid to the person benefitting from the corresponding credit ("the transferee").

3.3 If a pension sharing order is made by the courts it will provide for a percentage split of the protected payment to be shared between the two parties. The transferor's National Insurance record will be noted with a debit and the transferee's record will be noted with a credit. The credit and debit will be revalued

by prices, until the transferor and transferee reach their State pension ages. At State pension age the transferor's protected payment will be reduced by the debit and the transferees new State pension and/or their protected payment will be increased by the credit.

3.4 Section 148AD of the Social Security Administration Act 1992, 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 he 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 of the 2015 Act inserted new section 130AD into the Social Security Administration (Northern Ireland) Act 1992 (c. 8) ("the 1992 Act"). Section 130AD of the 1992 Act provides that where the Secretary of State makes an Order under section 148AD of the Great Britain Administration 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 the credit and debit by 1.0%.

4. Consultation

4.1 There is no requirement to consult on the proposals in 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 proposals and concluded that the proposals do not have significant implications for equality of opportunity. The Order merely discharges the Department's duty to revalue State pension debits and credits in line with the revaluation in Great Britain and does not alter policy.

6. Regulatory Impact

6.1 The Order does not require a Regulatory Impact Assessment as it does not impose a cost on business, charities, social enterprise or voluntary bodies.

7. Financial Implications

7.1 None.

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 the Rule—

(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 None.

10. Parity or Replicatory Measure

10.1 The corresponding Great Britain Order entitled the State Pension Debits and Credits (Revaluation) Order 2017 (S.I. 2017/375) will come into force on 10 April 2017. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998. It was therefore necessary to make the Order during the interregnum.