EXPLANATORY MEMORANDUM TO

THE SUPERANNUATION (VICTIMS OF CRIME COMMISSIONER DESIGNATE) ORDER (NORTHERN IRELAND) 2022

2022 NO. 105

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Finance to accompany the above named statutory rule which is laid before the Northern Ireland Assembly.

1.2 The statutory rule is made under Articles 3(4) and (7) of the Superannuation (Northern Ireland) Order 1972 and is subject to negative resolution procedure in the Assembly.

1.3. The rule is due to come into operation on 1 April 2022.

2. Purpose

2.1. The rule adds the office of Victims of Crime Commissioner Designate to the list of Schedule 1 bodies of the Superannuation Order with effect from 1 April 2022. Where an employment is listed at Schedule 1 to the Superannuation (Northern Ireland) Order 1972 pension provision is made for that Office in the Principal Civil Service Pensions Scheme (Northern Ireland) [PCSPS(NI)]. By adding the office of Victims of Crime Commissioner Designate to the list of Schedule 1 bodies, it also extends provision to the Civil Service Pension Scheme made under The Public Service (Civil Servants and Others) Pensions Regulations 2014, known as “alpha”.

3. Background

3.1. Legal advice for DSO for the Department of Justice has indicated that even though the Commissioner is not established under legislation, there may nonetheless be sufficient scope to add this body to Schedule 1 of the Superannuation (NI) Order 1972 under the legislation underpinning the DoJ Departmental functions, which also provides DoJ with the power to appoint a Victims of Crime Commissioner Designate. The office holder of Victims of Crime Commissioner Designate is appointed by the Minister of Justice and pension provision will be made for the person holding the post. The appointment was subject to public appointment competition and the successful candidate has been notified and pre-appointment checks are being completed.

3.3. Under Article 3 of the Superannuation (Northern Ireland) Order 1972, the Department of Finance has authority to make and maintain pension

arrangements for Northern Ireland Civil Servants in the PCSPS (NI). It may also make pension provision in the PCSPS (NI) for associated employments, public offices and public appointments which meet the requirement of Article 3(5) of the Superannuation (Northern Ireland) Order 1972 wherein the remuneration of persons serving in those employments or offices is paid out of moneys appropriated by a transferred provision or out of the Northern Ireland Consolidated Fund. The making of the statutory rule accomplishes this in respect of the post of Commissioner for Survivors of Institutional Childhood Abuse.

3.4 By adding the office to the list of schedule 1 bodies, the office**,** though not specified in section 1(2) of the Public Service Pensions Act (Northern Ireland) 2014, will do so under regulation 3(2)(d) of The Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014, whereby a person who holds an employment which is listed in Schedule 1 to the 1972 Order is a person to whom this Scheme ('alpha') '*may potentially relate'.*

3.5 Section 25 of the 2014 Act sets out the sequence of the procedures to be followed to enable an extension of the scheme. The Department of Finance as responsible authority may at any time make a determination under section 25(5) of the 2014 Act that the 'alpha' pension scheme established by the Public Service (Civil Servants and Others) Pension Regulations (Northern Ireland) 2014 will then apply to the persons to whom the determination relates as they apply to other persons to or in respect of whom pensions and other benefits are provided under the scheme. Section 25(10) provides that any determination may be retrospective so it is possible for the Department to make a determination after the making of the Order to make it have effect from 2 November 2020.

3.6 Sub-section 25(9) requires the Responsible Authority to publish a list of the persons for who a determination has been made under subsection 5. The list on the Department of Finance website will be updated to state that the scheme for the payment of pensions and other benefits established by the Public Service (Civil Servants and Others) Pension Regulations 2014 ("alpha") will also relate to the office of the Commissioner for Survivors of Institutional Childhood Abuse.

4. Consultation

4.1. The provisions of Articles 3(4) and (7) of the Superannuation (Northern Ireland) Order 1972 under which the statutory rule is made do not require that the Department carry out formal consultations prior to its introduction.

5. Equality Impact

5.1. An Equality Screening exercise is not considered necessary since the introduction of the legislation will not differentially impact adversely on any of the groups identified at section 75 of the NI Act 1998.

6. Regulatory Impact

6.1. The rule imposes no costs on business, charities, social economy enterprises or the voluntary sector. A Regulatory Impact Assessment is not considered necessary.

7. Financial Implications

7.1. There are no financial applications for the Department as contributions for pension provision are met by the employee/employer.

8. Section 24 of the Northern Ireland Act

8.1. The Departmental Solicitor's Office has advised that the Order is compatible with section 24 of the NI Act 1998.

9. EU implications

9.1. None.

10. Parity or Replicatory Measure

10.1. Not applicable.

11. Additional Information

11.1. Peter Philip (telephone 02871 310706 or email peter.philip@finance-ni.gov.uk) can answer any queries regarding the Regulations.