

SUPERANNUATION BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the Department of Finance and Personnel in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Department of Finance and Personnel has authority under the provisions of the Superannuation (Northern Ireland) Order 1972 to make, maintain and amend pension and compensation schemes for Northern Ireland civil servants and other employments listed at Schedule 1 to the Superannuation (Northern Ireland) Order 1972.
4. The Bill removes the requirement which currently exists in the Superannuation (Northern Ireland) Order 1972 whereby the Department of Finance and Personnel must secure the consent of trade unions to introduce detrimental changes to the Civil Service Compensation Scheme (Northern Ireland). The Bill also introduces new requirements for the Department of Finance and Personnel to report on the consultation it has engaged in with trade unions with the aim of reaching agreement on detrimental changes. Under the new requirement the Department must lay a report before the Assembly describing the consultation processes it has undertaken on proposed changes which would have the effect of reducing the level of compensation payable to civil servants on redundancy.

5. The Superannuation Act 2010 removed the requirement in the Superannuation Act 1972 for trade union consent to detrimental changes to the compensation scheme for the Home Civil Service in Great Britain.

CONSULTATION

6. The Department of Finance and Personnel has initiated consultation on the Bill with civil service unions.

OPTIONS CONSIDERED

7. Two possible options were considered. Firstly, to retain the current provisions of the Superannuation (Northern Ireland) Order 1972 relating to civil servants. This would have resulted in higher redundancy payments in the Northern Ireland Civil Service than in the Home Civil Service. The second option, which has been adopted, was to align the Superannuation (Northern Ireland) Order 1972 with the GB Superannuation Act 2010 and therefore, to ensure parity of pension arrangement between civil servants in Northern Ireland and those in Great Britain is maintained.

OVERVIEW

The Bill consists of 4 clauses. The clauses are:

Clause 1: Consents required for civil service compensation scheme modifications.

Clause 2: Consultation in relation to civil service compensation scheme modifications.

Clause 3: Interpretation

Clause 4: Short title and commencement

COMMENTARY ON CLAUSES

Clause 1: Consents required for civil service compensation scheme modifications.

This clause removes the requirement in Article 4 of the Superannuation (Northern Ireland) Order 1972 to obtain the consent of civil service trade unions for reductions in benefits provided under the Civil Service Compensation Scheme (Northern Ireland). The removal of this requirement does not apply to benefits provided in respect of an exit which is the consequence of a notice of dismissal given, or an agreement made, before the scheme making the reductions comes into effect. (See *subsections (1) to (3)*.)

Subsection (4) provides that the removal of the requirement for trade union consent applies to reductions given effect by a scheme made after the coming into force of clause 1.

Subsection (5) and (6) provide that where a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 is made after the time when this clause comes into force and consultation on the proposed scheme took place before that time, the fact that the amendments made by this clause were not in force when the consultation took place does not affect whether the consultation met the requirements of Article 3(2) of that Order. In other words, that consultation is not to be regarded as ineffective just because the amendments were not yet the law when it took place.

Clause 2: Consultation in relation to civil service compensation scheme modifications.

This clause augments the requirement on the Department of Finance and Personnel to carry out consultation with the civil service trade unions, through amendment of Article 4 of the Superannuation (Northern Ireland) Order 1972. **It also subjects any scheme, which would have the effect of reducing the amount of a compensation benefit, to negative resolution.**

Subsection (2) has the effect of requiring the Department of Finance and Personnel to consult with a view to reaching agreement on any provision of a scheme made under Article 3 of the 1972 Order that would reduce the amount of a compensation benefit. ('Compensation benefit' is defined in the new Article 4(3B) of the 1972 Order inserted by clause 1(3)).

Subsection (3) introduces a requirement for the Department of Finance and Personnel to lay before the Assembly a report on the consultation relating to such

a provision before the scheme comes into operation, and specifies what that report must include. It also subjects any such scheme to the negative resolution Assembly control procedure.

Subsection (4) provides that the changes made by clause 2 in relation to consultation apply to reductions given effect by a scheme made after the coming into force of clause 2.

Clause 3: Interpretation

This clause states that in the Bill “the 1972 Order” means the Superannuation (Northern Ireland) Order 1972.

Clause 4: Short title and commencement

This clause sets out the title of the Bill and when the provisions of the Bill come into force.

FINANCIAL EFFECTS OF THE BILL

8. The Bill will enable the Department of Finance and Personnel to reduce the amount of compensation payable to Northern Ireland Civil Service staff exiting on redundancy.

HUMAN RIGHTS ISSUES

9. The Department of Finance and Personnel considers that the amendments of Article 4 of the 1972 Order are not an interference to the rights to possessions protected by Article 1 of Protocol 1 (A1P1) to the European Convention on Human Rights. A1P1 provides that everyone is entitled to the peaceful enjoyment of his possessions and that no-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law. First, neither payments under the Civil Service Compensation Scheme (Northern Ireland) nor the rule in Article 4(3) of the 1972 Order are considered to be “possessions” within A1P1. Second, nothing in the Bill has effect in relation to cases where a notice of compulsory severance has already been given, or a voluntary severance has already been agreed. So there is no deprivation of or interference with existing possessions.

EQUALITY IMPACT ASSESSMENT

10. An Equality Screening exercise has been carried out and the outcome of this assessment has determined that a full Equality Impact Assessment is not necessary. The Bill does not differentially impact adversely on any of the Section 75 groups in the Northern Ireland Act 1998.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

11. The Bill will not impact on business, the voluntary sector or the environment. It has not therefore been subject to a regulatory impact assessment.

LEGISLATIVE COMPETENCE

12. The Minister of Finance and Personnel had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Superannuation Bill would be within the legislative competence of the Northern Ireland Assembly.”