



Department  
for Work &  
Pensions

# Pensions Bill Delegated Powers

Supplementary memorandum by the Department  
for Work and Pensions

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December 2013

# Pensions Bill Delegated Powers: supplementary memorandum by the Department for Work and Pensions

1. This Memorandum is prepared by the Department for Work and Pensions, and is supplementary to the Memorandum dated 31 October 2013. It identifies new or amended delegated powers conferred in the Government amendments to the Pensions Bill that have been tabled on 9 December 2013 for consideration at Lords Committee stage. It explains the purpose of the powers; the reasons for using delegated legislation; whether the powers are subject to Parliamentary scrutiny; which procedures apply; and the justification of these procedures.
2. The Government has tabled further amendments for consideration at Lords Committee stage but these have not been covered in this memorandum as they do not confer any powers for delegated legislation. A briefing paper on all Government amendments has been sent to Peers with an interest in the Bill and a copy has been placed in the Library. The Government expects to table some further amendments to the Bill for consideration at Lords Committee and will send a further supplementary Memorandum on the day the amendments are tabled if appropriate.

## **Part 5 – Private pensions**

### **New clause after clause 47: Public service pension schemes: transitional arrangements**

*Powers conferred on: Minister for the Civil Service; the Lord Chancellor; the Secretary of State; Welsh Ministers; Scottish Ministers (“responsible authorities”)*

*Powers exercised by: Regulations (Statutory Instrument)*

*Parliamentary procedure: Minister for the Civil Service; Lord Chancellor and Secretary of State: negative, both Houses; (but affirmative, both Houses, if regulations contain amendments to primary legislation; make provision for judicial pensions which is not minor or wholly beneficial; or make significant adverse retrospective provision).*

3. The Public Service Pensions Act 2013 (‘the 2013 Act’) provides for the public service pension reforms recommended by the Independent Public Service Commission chaired by Lord Hutton. This amendment extends an existing power in section 18 of the 2013 Act to make exemptions from the effect of reform.
4. Sections 18 (1) and (4) of the 2013 Act provide for the current major public service pension schemes for civil servants, the judiciary, local government workers, teachers, health service workers, fire and rescue workers, members of police forces and members of the armed forces (defined collectively in section 18(2) as ‘the existing schemes’) to close to future accrual from 1 April 2015 (1

April 2014 in the case of local government workers). They will be replaced by new schemes set up under section 1 of the 2013 Act, with the scheme design features provided for by the rest of the 2013 Act.

5. On 2 November 2011, the Chief Secretary to the Treasury announced that no-one within 10 years of their Normal Pension Age as at 1 April 2012 would see any change in when they could retire or any decrease in the amount of pension they would receive. These members with full protection would remain in the current existing schemes. He also announced tapering protection for people between 10 and 14 years of their current Normal Pension Age as at 1 April 2012. People with tapered protection would move to the new schemes on a date after 1 April 2015, depending on which scheme they were in and how far away they were from their current Normal Pension Age. Sections 18(6) and 18(7) of the Act enable the new schemes to provide full and tapered protection (known collectively as transitional protections) by way of exceptions to section 18(1). Eligibility for exceptions is restricted by section 18(5) of the 2013 Act, to those people with service (or who were eligible to accrue service) in the existing schemes before 1 April 2012.
6. There are a number of smaller public service pension schemes which are also to be reformed, collectively defined in section 30(5) of the 2013 Act as “public body pension schemes”. The Committee will note that the definition of public body pension schemes specifically excludes the existing schemes.
7. The Government’s aim is to complete the reform of public body pension schemes before 1 April 2018. In the main, that will be accomplished by moving the members of public body schemes into the new schemes made under section 1 of the 2013 Act. The Government has stated that the same transitional protections will be available to members of public body pension schemes as to the existing schemes. Section 31(4) of the Act accordingly allows transitional protections to be made for members of public body pension schemes in line with sections 18(6) and (7).
8. At the time the 2013 Act was enacted discussions on the detail of how these public body pension schemes would be dealt with were still at very early stages. The provisions set out in the 2013 Act mean that transitional protection can be provided on the same model as in the existing schemes, namely that those members without transitional protection would move to a new scheme made under section 1 of the 2013 Act, or to a new public body pension scheme set up under section 31(7) or another enabling power. Members with transitional protection would remain in the existing public body pension scheme.
9. As work in this area has progressed it has become apparent that greater administrative savings would be made if the members with transitional protection could also be moved into the existing schemes. This would not reduce or expand the transitional protections to which they would be entitled. Unfortunately, the power to make exceptions in section 18 is not wide enough to enable scheme regulations under section 1 of the Act to provide transitional protections to members of public body pension schemes from within an existing scheme. That is because they are outside the eligibility criteria contained in section 18(5).

10. This amendment would insert sub-section 18(5A) into the 2013 Act to add to the permitted exceptions in section 18. It allows transitional protection in existing schemes to cover members of a public body pension scheme which is specified in the scheme regulations. That allows transition to be offered on the same terms as is currently allowed under the Act to members of such schemes when they are reformed but from within an existing scheme.
11. The Committee will note that the ability to give transitional protection to members of public body pension schemes on these terms already exists. This amendment will simply allow this to be done in a more cost-efficient way. The power to identify public body pension schemes for whom transitional protection may be provided from within existing schemes will be exercised in scheme regulations made under section 1(1) of the 2013 Act. By section 24 of the 2013 Act these statutory instruments are made using the negative procedure, unless they amend primary legislation, make provision for significant adverse retrospective effects, or make provision for judicial pensions which is not minor or wholly beneficial. The choice of procedures, including the use of the affirmative in certain cases, reflects advice from the Committee in its report on the 2013 Act. It is considered that those procedures would remain appropriate with this amendment since it does not change the scope of permitted transitional protection other than to allow it to be delivered from within an existing scheme as well as a public body pension scheme.
12. As a consequence of this amendment, the Government has also tabled an amendment to Clause 51 to provide that HMT can commence this provision by order.

Department for Work and Pensions

9 December 2013