GOVERNMENT ACTUARY'S DEPARTMENT

Technical Bulletin

Public Service Pensions Act 2013

29 April 2013

The Public Service Pensions Bill received Royal Assent on Thursday 25 April 2013, becoming the Public Service Pensions Act 2013 ('the Act'). This Bulletin provides an overview of some of the Act's provisions.

Summary
The Act makes various provisions relating to public service pension schemes, some of which are summarised below. Further detail on these provisions is given in the rest of this Bulletin.

> The main existing public service schemes may not provide benefits in relation to service after 31 March 2015 (or service after 31 March 2014 for the Local Government Pension Scheme in England & Wales).

> The Act provides for scheme regulations to be made within a common framework, to establish new Career Average Revalued Earnings schemes to pay pensions and other benefits to certain public servants.

> In general, normal pension age will be linked to State Pension age, with some exceptions for members of the police, firefighters and armed forces.

> Actuarial valuations are to be carried out in accordance with directions set by HM Treasury after consultation with the Government Actuary.

> A cost control mechanism will keep the ongoing cost of the schemes within defined margins with steps outlining remedial action that will be taken if these margins are breached.

> The provision of benefits is also restricted in relation to service after specified dates for some office-holder and Non-Departmental Public Body pension schemes.

> An increased governance regime applies to public service pension provision, with the Act requiring that each scheme appoint a Scheme Manager who will be assisted by a Pension Board. Further, each scheme will establish a Scheme Advisory Board to advise on the desirability of changes to the scheme.

> The jurisdiction of the Pensions Regulator in relation to public service pension schemes is extended, and the regulator may issue Codes of Practice relating to such schemes.

> The Act contains various provisions relating to information requirements for public service pension schemes, including an annual requirement to issue benefit information statements to active members.

If you would like to discuss any of these issues in more detail or have any other questions please get in touch with your usual GAD contact.

The Public Service Pensions Bill

The Public Service Pensions Bill was introduced to Parliament in September 2012. The House of Commons and House of Lords reached agreement on the wording of the Bill on 24 April 2013, with Royal Assent granted the following day. The Act makes provision for new public service pension schemes to be established in England, Wales & Scotland[1] and legislates for many of the recommendations of the Independent Public Service Pensions Commission's (IPSPC) review of public service pension provision[2], which reported in 2011.

Existing schemes and transitional arrangements

The Act requires that no benefits are to be provided under the main existing public service schemes in relation to a person's service after 31 March 2015 (or after 31 March 2014 for the Local Government Pension Scheme in England & Wales). Scheme regulations may provide for transitional arrangements, permitting limited continued access to the existing schemes, although the Act places restrictions on whom these transitional provisions may apply to[3].

Establishment of new schemes

The Act provides for regulations to be made to establish new schemes to pay pensions and other benefits to certain public servants, primarily to: civil servants, the judiciary, local government workers, teachers, health service workers, fire and rescue workers, police officers and the armed forces.

The Act is intended to provide a common framework for 'responsible authorities' to create these schemes. In general, the responsible authority is the relevant Secretary of State or appropriate Scottish or Welsh Ministers. With some exemptions for schemes relating to certain Scottish or Welsh public servants, the Act requires that HM Treasury consent to scheme regulations before they are made.

Scheme design

Whilst the Act does not prescribe the exact nature of the benefits to be provided in the new schemes, it does preclude the establishment of schemes with benefits linked to a member's final salary. Consultation by departments to date suggests that most, if not all, of the new schemes will offer benefits based on Career Average Revalued Earnings (or 'CARE') but the Act does provide for alternative approaches.

In the Act, the extent to which a scheme is a CARE scheme, members' contribution rates and benefit accrual rates are described as 'protected elements'. The Act sets out consultation and reporting requirements which apply if amendments are proposed to these elements before 31 March 2040, other than where changes arise from the cost control procedures outlined below.

Scheme regulations are expected to provide for the pensions of active members to be revalued. HM Treasury is required by the Act to make an order each year specifying the revaluation percentage that applies for a given period to active members' benefits. Different provisions may be made for different purposes, for example some revaluation may be with reference to prices and some to earnings.

Scheme regulations may make provision for membership of the new public service pension schemes to be extended to certain persons who would not otherwise be eligible.

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[1] A statement was made in the Northern Ireland Assembly in November 2012 confirming that similar legislation would be introduced in respect of public service pension schemes in Northern Ireland.

[2] See GAD Technical Bulletin on the IPSPC's interim report and GAD Technical Bulletin on the IPSPC's final report.

[3] Further information on transitional provisions is available in HM Treasury's November 2011 paper 'Public Service Pensions: good pensions that last'.

Normal pension age
In general, members of the new schemes will be able to retire or access deferred benefits, with no actuarial reduction for early payment, from their State Pension age or, if later, age 65. Should their State Pension age change in the future[4], this will affect the age at which they can access all benefits accrued in the new schemes. The Act provides an exemption for members of the police, firefighters and armed forces, who will be able to access their benefits unreduced if they leave active service at age 60 or later.

A review will be undertaken within 6 months of section 10 of the Act coming into force, to aid consideration of the appropriate normal pension age for the Defence Fire and Rescue Service and the Ministry of Defence Police.

Cost control - valuations
The Act requires newly established defined benefit schemes (which includes CARE schemes) to undertake actuarial valuations carried out in accordance with directions set by HM Treasury. The valuation directions, and any variations or revocations to them, may only be set after consultation with the Government Actuary. These actuarial valuations inform the employer contribution rates in the unfunded schemes and inform the operation of the cost cap mechanism[5].

Cost control - employer cost cap
The IPSPC recommended that the Government establish a mechanism to control the future costs of providing public service pensions. The Act requires each scheme to set a cap, the 'employer cost cap', in accordance with HM Treasury directions and expressed as a percentage of pensionable earnings[6]. This cap will be used when measuring changes in the cost of the scheme assessed at valuations. Margins around the employer cost cap will be set in HM Treasury regulations. Should the costs of a scheme subsequently fall outside of these margins, scheme regulations are expected to set out a procedure on the steps required to rectify the change in costs (and set out a default approach if agreement cannot be reached between stakeholders).

Schemes with funds
The Act also makes provisions for funded schemes, for example the LGPS. When an actuarial valuation of a fund takes place, the responsible authority must appoint an appropriately qualified person to undertake a review of that valuation, reporting on certain aspects as set out in the Act.

'Public body' pension schemes
The Act lists a number of existing office-holder or Non-Departmental Public Body pension schemes to be restricted, and permits HM Treasury to amend that list in future. The Act requires the public authority responsible to make provision to ensure that no benefits are provided through the existing scheme in relation to service after a specific date[7]. Where possible, it is intended that pensions for the bodies' employees will, in future, be provided through one of the reformed, unfunded public service pension schemes - the default being

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[4] see GAD Technical Bulletin on the State Pension White Paper for details of the proposed reviews of State Pension age

[5] HM Treasury published a policy paper in November 2012: 'Actuarial valuations of public service pension schemes'.

[6] HM Treasury published a policy paper in November 2012: 'Establishing an employer cost cap in public service pension schemes'.

[7] A July 2012 Written Ministerial Statement from the Chief Secretary to the Treasury confirmed that reforms to public body pension schemes should be introduced no later than 5 April 2018.

the Principal Civil Service Pension Scheme. HM Treasury consent is required to establish a new public body scheme, or to make any variation to the rules of existing schemes.

Governance

The Act requires each scheme to appoint a Scheme Manager and Pension Board. The Scheme Manager will be responsible for managing or administering the schemes. The Pension Board, which must include equal numbers of employer and member representatives, will be responsible for assisting the scheme manager with tasks such as securing compliance with legislation and regulatory requirements.

Defined benefit schemes established under the Act will also be required to have a Scheme Advisory Board, to provide advice to the responsible authority, on request, on the desirability of changes to the scheme.

Regulatory oversight

The Pensions Act 2004 established the Pensions Regulator, defining its functions and powers. The Act includes significant amendments to Pensions Act 2004, extending the jurisdiction of the Pensions Regulator in relation to particular aspects of public service pension provision including, but not limited to:

- the power to appoint a skilled person to assist the Pension Board of a public service pension scheme in the discharge of its duties
- the right to issue Codes of Practice in relation to public service pension schemes
- requirements relating to the knowledge and understanding of individuals who are members of the Pension Board for a public service pension scheme.

Information provisions

The Act contains various provisions relating to information requirements including the information that must be published about schemes' Pension Boards. Under the Act, scheme regulations must require benefit information statements to be provided annually (subject to an initial easement), to all members in pensionable service in defined benefit schemes established under the Act. Statements must include a description of the benefits earned and other information as required under HM Treasury directions.

HM Treasury directions may also be issued requiring the publication of information about the scheme or the provision of such information to HM Treasury.

As noted above, if you would like to discuss any of these issues in more detail or have any other questions please get in touch with your usual GAD contact.