Cabinet Office

Report on proposed amendment to the Public Service (Civil Servants and Others) Pensions Regulations 2014

4th March 2021

Presented to Parliament pursuant to section 22(2)b of the Public Service Pensions Act 2013

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Introduction

1. The Public Service (Civil Servants and Others) Pensions Regulations 2014 (the "2014 Regulations") made under the Public Service Pensions Act 2013 (the "2013 Act") established a scheme making provision for the payment of pensions and other benefits to civil servants, and provided that active members of the scheme must pay contributions to the scheme ("member contributions").

2. As members' contribution rates is defined as a protected element in section 22(5) of the 2013 Act, where the Minister for the Civil Service (the "Minister") proposes to make regulations containing provision changing members' contribution rates, the responsible authority (in this case the Minister) is required to consult persons (or representatives of the persons) who appear to be likely to be affected by the regulations with a view to reaching agreement with them, and lay a report before Parliament. The report must set out why the Minister proposes to make the regulations, having regard to the desirability of not making a change to the protected element within the protected period (which ends on 31st March 2040).

3. This report sets out that information.

Background to proposed amendment

4. The 2014 Regulations established a new Civil Service pension scheme from 1st April 2015. Regulation 134 of the 2014 Regulations, as amended, makes provision for the member contributions rate payable by a scheme member up to 31st March 2021. The member contributions rate and associated annualised rate of pensionable earnings band ("pensionable earnings band") set out in Regulation 134 are designed to yield an average of 5.6% of members' pensionable earnings. Regulation 134 is silent on member contributions rates from 1st April 2021, and provision needs to be made for this.

5. The purpose of the amendment is to extend (and not alter) the current member contributions rates and to slightly increase 2020/21 pensionable earnings bands from 1st April 2021 to enable the scheme to continue to collect member contributions.

6. The Chief Secretary to the Treasury (the "Chief Secretary") announced on 30th January 2019 that the Government was pausing one element of the valuations of public service pensions; the mechanism for assessing the value of public service pensions (the "cost control mechanism"). The Chief Secretary's statement advised that the judgment of the Court of Appeal in *Lord Chancellor and Secretary of State for Justice and another v McCloud and others* and *Secretary of State for the Home Department and others v Sargeant and others* [2018] EWCA Civ 2844 on part of the 2015 pension reforms meant that it was not possible to assess the value of current public service pension arrangements with any certainty, and that the cost control mechanism was being paused

until there is certainty about the value of public service pensions to employees from April 2015 onwards. An impact of pausing the cost control element was that contributions for the 4 years from 2018/19 were not set as part of that valuation process.

7. Following the pause of the cost cap process, member contribution rates and salary thresholds for 2018/19 were extended for a one-year period to 31 March 2020. The rates were then further extended to 31 March 2021, but this time with revalorised salary thresholds. Cabinet Office is now required to consider contribution rates for 2021/22 because if new rates for 2021/22 are not legislated for there will be no legal basis to collect member contributions and members would cease to pay member contributions from April 2021.

8. HM Treasury announced the unpausing of the cost cap process in July 2020. However, the results of the process will not be known in time for them to be taken into account in determining contribution rates for 2021/22.

9. This amendment to the 2014 Regulations has the effect of retaining the current member contributions rates, as set against revalorised pensionable earnings bands, for a one-year period from 1st April 2021 until 31st March 2022. It ensures that member contributions can continue to be lawfully deducted from 1st April 2021, thus safeguarding the effective operation of the Civil Service pension scheme. The effect of the amendment on the member contributions rate table in the 2014 Regulations is as follows:

Scheme Year 1st April 2021 to 31st March 2022

(2020/21 thresholds shown in brackets)

Annualised rate of pensionable earnings (£)		Member contribution rate
From	To	
£0	£23,100 *(£22,600)*	4.60%
£23,101*(£22,601)*	£56,000 *(£54,900)*	5.45%
£56,001 *(£54,901)*	£150,000 *(£150,000)*	7.35%
£150,001 *(£150,001)*	-	8.05%

Consultation

10. Employee representatives were consulted about these regulations in accordance with section 22(2)(a) of the Act. Responses from non-affiliated unions, Defence Police Federation (DPF) and Unison confirmed no objections to contribution rates being extended to 2021/22.

11. A collective response was received from the NTUC (covering the main recognised unions FDA, GMB, NIPSA, PCS, POA, Prospect and Unite). The NTUC expressed their frustrations at the third rollover of member contributions and emphasised the unacceptable position they have been left in.

12. The NTUC outlined they are opposed to the simple rollover of member contributions and listed their four demands:
    - We demand a clear timetable for the completion of the cost cap mechanism through to implementation of changes in the event of a breach, including NTUC and SAB engagement.
    - We are calling for HM Treasury to expedite the publishing of its response to the consultation on remedying McCloud and new Treasury Directions.
    - The Government Actuaries Department to do all preparatory work to expedite the time that will be taken for the SAB to receive updated results from the cost cap mechanism, and for employers to prepare for implementation.
    - We want a clear commitment that the priority will be given to reduce member contributions at least in line with previous SAB recommendations to the Minister following the 2016 draft valuation results, and with a value which delivers the full amount of a reduction for the period from 1st April 2019 to 31st March 2023.

13. The Cabinet Office carefully considered the response from the FDA, GMB, NIPSA, PCS, POA, Prospect and Unite and Prospect. The NTUC demands are focussed on the Cost Cap 2016 and Valuation processes owned by HM Treasury. Cabinet Office Officials will engage with HM Treasury and inform them of the response from the NTUC to ensure the demands are considered in regard to the Cost Cap 2016 and Valuation. Cabinet Office officials will ensure that there is consistent communication with the NTUC in regards to the progression of these demands through the SAB. The unions' representations did not persuade the Minister to make any changes to the proposal that was initially consulted on.

Impact

14. For the year ending 31st March 2022, the current member contributions rates will continue with an inflation increase to the pensionable earnings bands that determine the contribution rate payable by an individual member, based on their pensionable earnings in the Civil Service pension scheme.

15. An impact assessment has not been prepared as no impact on the private or voluntary sector is foreseen. There is no impact on business, charities or voluntary bodies and no significant impact on the public sector.

Conclusion

16. Parliament is invited to note the reason for proposing to extend to 31st March 2022 the current member contributions rates and associated pensionable earnings bands.

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[back cover – for printed publications, you can add a summary of the report here]