EXPLANATORY MEMORANDUM TO

THE CIVIL SERVICE (OTHER CROWN SERVANTS) PENSION SCHEME REGULATIONS 2016

2016 No. 326

1. Introduction

1.1 This explanatory memorandum has prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument establishes a career average revalued earnings ('CARE') pension scheme, by analogy to the civil service pension scheme established in the Public Service (Civil Servants and Others) Pensions Regulations 2014 (SI 2014/1964) (PSCOPS) with some amendments and modifications. The pension scheme provides for the payment of pensions and other benefits to, or in respect of, civil servants employed by the Secret Intelligence Service (SIS) and the Security Service ("the agencies").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 These Regulations contain ambulatory references to provisions of PSCOPS. This is so that the pension scheme continues to be by analogy to the main civil service scheme, and so that regular technical modifications to the main civil service scheme will flow through to the scheme established by these Regulations. These regular technical modifications will be necessary to keep both schemes up to date with changes in wider pensions and taxation legislation. In the event of any wider changes to the main civil service scheme which are inappropriate for staff of the agencies, such as changes to the civil service scheme design, further provisions can be made by amending Regulations to dis-apply them.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument implements reforms to public service pension schemes in respect of civil servants employed by the agencies under the powers provided in the Public Services Pensions Act 2013 (the Act). Staff of the agencies do not take part in the main civil service pension schemes and so reform of their pension arrangements has been carried out separately.

4.2 The Act was enacted in response to the recommendations of the Independent Public Service Pensions Commission (the Commission) led by Lord Hutton of Furness. The Commission published its final report on 10 March 2011. The report recommended a series of changes to public service pension provision in order to preserve the sustainability of the pension schemes in the long term together with a more balanced distribution of costs between the members of the scheme and, via the employer, the taxpayer.

4.3 The Act paved the way for the delivery of these reforms. Under it, new pension schemes have been established for persons in public service. The reform of the main civil service pension schemes took place on 1 April 2015. However, the Act specifically carved out staff of the agencies from this reform (see paragraph 1 of Schedule 1 to the Act), and so their pension arrangements required a separate reform. This instrument establishes, with effect from 1 April 2016, the reformed scheme for civil servants employed by the agencies. The reforms include, as required by the Act, a pension calculated by reference to the member's career average earnings, a normal pension age equal to the state pension age for the majority of members and various provisions on governance of the scheme.

5. Extent and Territorial Application

5.1 The extent of this instrument is all of the United Kingdom.

5.2 The territorial application of this instrument is all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy background

What is being done and why

7.1 The agencies are listed in Schedule 10 of the Act as public bodies whose existing pension arrangements are required by section 31 to be reformed. The agencies have determined that this reform is to take place on 1 April 2016. The effect of the reforms are that existing schemes must cease to provide benefits for members in relation to service after 1 April 2016 (except where transitional protections apply). The current members of the existing schemes will, save for specific protected groups, transition into the new scheme established by these Regulations.

7.2 The existing schemes for employees of the agencies are established 'by analogy' to the Principal Civil Service Pension Scheme (PCSPS). That is, with some exceptions and modifications, their schemes incorporate in full the rules of the PCSPS. Employees of the agencies remain civil servants, but they do not participate in the main civil service pension arrangements (PSCSP and PSCOPS).

7.3 These Regulations now establish, with effect from 1 April 2016, a reformed pension scheme for employees of the agencies that is 'by analogy' to the scheme established by PSCOPS (the reformed main civil service pension scheme), save where some exceptions and modifications apply. Accordingly, this instrument has been drafted to apply, with modifications, the majority of the regulations within PSCOPS to the scheme established by these Regulations.

7.4 The ambulatory references to PSCOPS are intended to capture minor and technical changes that are made from PSCOPS from time to time, to update the schemes in line with changes in wider pensions and taxation legislation. These changes will flow through to the scheme established by this instrument without further amending Regulations being required. However, wider changes to the civil service scheme design which are not appropriate to flow through to the scheme established by this instrument can be carved out by further amending Regulations. It is not possible to do so at this point as we do not know what (if any) such future changes will be.

7.5 Part 2 of the instrument sets up the governance arrangements for the scheme in compliance with the requirements of sections 4 to 7 of the Act. Part 3 makes provisions relating to valuations and cost control in compliance with the requirements of sections 11 and 12 of the Act. Part 4 establishes the by-analogy scheme, with regulation 9 setting out which regulations of PSCOPS are applicable and regulation 10 identifying the modifications to PSCOPS. This ensures compliance with other mandatory requirements of the Act, such as the need to provide CARE benefits in compliance with section 8, and a pension age equal to the state pension age as required by section 10. Part 5 provides a mechanism for certain employees of SIS who transition into the new scheme to retire with an effective pension age of 60, funded by the employer.

7.6 Those employees of the agency who were within 10 to 13.5 years of their normal pension age in their old schemes on 1st April 2012 (and so who will receive tapered transitional protection) will have a choice of when to move into the new scheme – either on the scheme start date or on their tapered enrolment date which provides fixed alternative dates for partially protected members to join the new scheme. The options exercise is under way and will close on 18th April 2016. Any member who exercises the option to move into the new scheme between 1st and 18th April 2016 will not receive any service in the existing schemes after 31st March 2016, and have their service in the new scheme backdated to 1st April 2016, in accordance with their wishes.

8. Consultation outcome

8.1 The Public Service Pensions Act 2013 requires (section 21) the Minister responsible for making the regulations to consult those the Minister considers likely to be affected by them: or the representatives of those persons. In line with usual practice the agencies have regularly and consistently engaged with staff and their representatives about the reforms to pensions from June 2014 onwards, including both written consultations and meeting with staff.

9. Guidance

9.1 As the new scheme is established 'by analogy' to the scheme established by PSCOPS, the majority of the guidance on the main civil service scheme produced by the Cabinet Office will be relevant to the reformed scheme for staff of the agencies. Cabinet Office has produced a new scheme website which will provide members and employers with dedicated information and supportive resources, which has been available since July 2014. Resources on the site include presentations, factsheets and videos. Members will be directed to the information by the agencies. In addition, the agencies will provide members with specific materials including guides and calculators.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector. The regulations put in place new and reformed pension arrangements for civil servants employed by the agencies, to take the place of their existing arrangements.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The instrument includes, in compliance with section 11 of the Act, a requirement for the new pension scheme to be subject to regular actuarial valuations. The instrument also includes, in compliance with section 12, provisions triggering changes to the scheme if the costs of the scheme move outside of a fixed range. This will ensure that the costs of the scheme remain under control as it moves forward.

13. Contact

13.1 Peter Jinks at the Cabinet Office Telephone: 020 7271 6705 or email: Peter.Jinks@cabinetoffice.gov.uk can answer any queries regarding the instrument.