EXPLANATORY MEMORANDUM TO

THE AWE PENSION SCHEME (TRANSFER OF ASSETS) REGULATIONS 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by The Ministry of Defence and is laid before Parliament by Command of His Majesty.

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

2. Declaration

2.1 Wes Streeting, Secretary of State at the Ministry of Defence confirms that this Explanatory Memorandum meets the required standard.

2.2 Stephanie Smith, Deputy Director for Finance at the Ministry of Defence, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Aneesh Jasal at the Ministry of Defence can be contacted by email at the following address with any queries regarding the instrument: DNO-CorporateGovernance@mod.gov.uk. Alternatively, the department can be contacted by telephone: 03033799452.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Statutory Instrument implements part of a Budget 2025 measure and enables the Government to direct the realisation of assets held by the AWE Pension Scheme ("the Scheme") and their transfer to Government. This is expected to reduce the Government's borrowing in 2026-27. The instrument also imposes a statutory obligation on the Government to arrange funding for the Trustee's liabilities, which safeguards the payment of member benefits.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 The Scheme is a funded trust-based occupational pension scheme which benefits from a Crown Guarantee. In accordance with the July 2022 Written Ministerial Statement by which Parliament was advised of the Crown Guarantee, the MOD had begun engaging with AWE plc and the Pension Trustee to consider a transfer of the Scheme liabilities to a new Government scheme, alongside the transfer of the Scheme assets to the Government.

5.2 In her 2025 Budget, the then Chancellor announced that the liabilities of the Scheme would no longer be pre-funded. This is in accordance with the wider principle in Managing Public Money that where

financial risk for certain liabilities sits with the Government, those liabilities should not be pre-funded.

5.3 In accordance with the Budget 2025 policy, the process of realising Scheme assets should begin as soon as possible so that the funds can be used more effectively elsewhere in the public sector within the current 2026/27 financial year. The proposal is expected to reduce the Government's borrowing in 2026-2027. In the longer term, the Government will establish a new public pension scheme into which the qualifying rights of members will be transferred.

5.4 This instrument allows the realisation of assets to commence while safeguarding members' interests by ensuring the Government will meet the Scheme's liabilities. It also protects the Trustee by ensuring that its compliance with the Government's instructions will not place it in breach of obligations imposed by statute or the common law.

This instrument will achieve the following:

- provide a mechanism for the realisation and transfer of the Scheme's assets to Government;
- establish a statutory framework for an alternative funding mechanism for the Scheme;
- protect the Trustee and AWE plc from potential liabilities arising from this defunding measure during the period before the new public scheme is introduced and scheme liabilities transferred.

What was the previous policy, how is this different?

5.5 HMT policy is that Government liabilities (in this case those backed by the Crown Guarantee) should not be backed by separate assets where the financial risk sits with Government, as it is more economically efficient for financial assets to be held in the private sector. Government has been working towards turning the Scheme into a publicly funded one since the grant of the Crown Guarantee, which involves sale of the assets and transfer of the proceeds to the Exchequer.

6. Legislative and Legal Context

How has the law changed?

6.1 As a funded trust based occupational pension scheme, the Scheme and its Trustee are currently subject to an overarching regime under a range of statutes, as well as fiduciary duties under trust law relating to management and investments of assets.

6.2 This instrument is required to ensure that the Trustee will not be in breach of these obligations when complying with directions to realise assets and transfer them to Government. It also ensures that Government will be under a duty to ensure that the liabilities of the Trustee are met as they arise, thus safeguarding member benefits.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 Since the AWE Pension Scheme Transfer was announced in November 2025, MOD has worked with the Pension Scheme Trustees to develop and test the legislation required to ensure the transfer of scheme assets operates as intended.

7.2 The MOD is required, under s119(1)(b) to consult the Trustee in relation to these regulations. An intensive period of engagement between the MOD, AWE plc and the Trustee took place following the passage of the primary legislation, with an agreed formal four-week consultation taking place between 11 August 2026 and 15 September 2026.

8. Applicable Guidance

8.1 SI does not implement or require guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no significant impact on the private, voluntary or public sector is foreseen. A summary assessment of expected impact was prepared during the passage of the Pension Schemes Act 2026 and can be found at Table 4o in the published final Impact Assessment for the Act:

https://www.legislation.gov.uk/ukia/2026/146/pdfs/ukia_20260146_en.pdf .

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant impact on business, charities or voluntary bodies because this instrument relates specifically to the transfer of assets from the AWE Pension Scheme to Government.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant impact on the public sector because this measure does not create any new costs or liabilities for the Government, as the Scheme already benefits from a Crown Guarantee.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that these provisions are subject to continued monitoring and review.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument is made using powers in section 116 of the Pension Schemes Act 2026, which include Henry VIII powers to disapply statutory provisions and rules of law, as well as to modify specified statutory provisions. The Scheme will remain in existence as a trust-based scheme for some time after the assets are realised and transferred to Government.

11.2 The provision made using these powers ensures that the Trustee is protected from adverse consequences that might otherwise arise. This provision will ensure that the Trustee is not in breach of various statutory and common law rules simply because it is complying with a direction from the Secretary of State under this instrument.

12. European Convention on Human Rights

12.1 The Secretary of State has made the following statement regarding Human Rights:
"In my view the provisions of the AWE Pension Scheme Transfer (Transfer of Assets) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").