EXPLANATORY MEMORANDUM TO

THE PERSONAL ACCOUNTS DELIVERY AUTHORITY WINDING UP ORDER 2010

2010 No. [DRAFT]

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order winds up the Personal Accounts Delivery Authority (the Authority) and makes arrangements for the transfer of its property, rights and liabilities to either the National Employment Savings Trust Corporation (the NEST Corporation) or the Secretary of State. It takes effect from 5 July 2010.

2.2 The Authority was set up on a time-limited basis to assist and advise the Secretary of State on setting up a new pension scheme.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

4.1 This instrument makes use of the affirmative power in section 23 of the Pensions Act 2007 (as amended by section 79 of the Pensions Act 2008) to wind up the Authority and transfer its property, rights and liabilities.

4.2 The Pensions Commission chaired by Lord Turner published Reports in October 2004[1] and November 2005[2] that identified that millions of people were undersaving for retirement. Following the Commission's recommendations, the Government response - in the form of the White Paper *Security in retirement: towards a new pensions system*, published in May 2006[3] - set out a programme of state and workplace pension reforms which aimed to increase an individual's income in retirement (the Government's response to this consultation was published in October 2006[4]). The 2007 and 2008 Pensions Acts provide the legislative basis for the Governments reform package.

4.3 The Authority was set up under section 20 of the Pensions Act 2007, initially to provide advice to the Secretary of State on setting up a pension scheme that would

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[1] First Report of the Pensions Commission – "Pensions: Challenges and Choices", chapter 4, section 5. http://www.webarchive.org.uk/wayback/archive/20070801230000/http://www.pensionscommission.org.uk/publications/2004/annrep/fullreport.pdf

[2] Second Report of the Pensions Commission - "A New Pensions Settlement for the Twenty-First Century", chapter 10, section 12. http://www.webarchive.org.uk/wayback/archive/20070801230000/http://www.pensionscommission.org.uk/publications/2005/annrep/main-report.pdf

[3] http://www.dwp.gov.uk/docs/white-paper-complete.pdf

[4] http://www.dwp.gov.uk/docs/pens-wp-response.pdf

support employees on low to moderate earnings in saving for retirement. Its remit was extended by section 79 of the Pensions Act 2008, to enable the Authority to design and develop the infrastructure for that scheme.

4.4 The NEST Corporation, the body that will be responsible for running the new pension scheme, will be established on 5 July 2010. From that date they will be responsible for any remaining implementation and for the operation of the scheme.

4.5 Parliament debated the timing of the winding up of the Authority during the passage of the Pensions Act 2008. Ministers' response was that it should wind up once it had completed its task of setting up the scheme, although there might be a period during which the Authority might need to work alongside the trustee to facilitate a smooth handover of responsibility. [HC Deb, 5 February 2008 col 423[5], HL Deb, 10 July 2008, col 947[6]]. This Order makes provision to dissolve the Authority on 5 July 2010 and to transfer the Authority's property, rights and liabilities to either the NEST Corporation or the Secretary of State.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Minister of State for Pensions and the Ageing Society, Angela Eagle, has made the following statement regarding Human Rights:

"In my view the provisions of the Personal Accounts Delivery Authority Winding Up Order 2010 are compatible with the Convention rights."

7 Policy background

- ***What is being done and why.***

7.1 It has always been intended that the Authority would be a time-limited organisation, with a remit to advise and assist the Secretary of State in designing and developing the infrastructure for a new, low cost pension scheme. Section 23 of the Pensions Act 2007 (as amended by section 79 of the Pensions Act 2008) therefore made provision to dissolve the Authority at an appropriate time.

7.2 By July 2010 the Authority will have completed its work; the scheme design (including the scheme order and rules) will be finalised, and the procurement processes for services to support the operation of the scheme will be well advanced. Any remaining implementation will be completed by the NEST Corporation who will have ongoing responsibility for the operation of the scheme. Some implementation activities – including for example those dependent on the adoption of a Statement of Investment Principles – can only be completed by the trustee.

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[5] House of Commons General Committee
[6] www.publications.parliament.uk/pa/ld200708/ldhansrd/text/80710-0016.htm

7.3 The establishment of the NEST Corporation on 5 July 2010 is therefore an appropriate time to dissolve the Authority and transfer its property, rights and liabilities to the NEST Corporation. This will enable the trustee to take forward and finalise implementation in order to establish and operate the scheme in the best interests of future members.

7.4 Property, rights and liabilities to transfer to the NEST Corporation include (but are not limited to) all rights and liabilities with respect to employees of the Authority, any contracts that the Authority has entered into, and records that the Authority holds. The only exception relates to records covering advice or assistance to the Secretary of State on questions of policy, assistance or advice to the Secretary of State or the Pensions Regulator on the enforcement of the auto-enrolment requirements in Part 1 of the Pensions Act 2008 and records relating to the oversight of the Authority's affairs as a Non Departmental Public Body. Ownership of these records will transfer to the Secretary of State.

- ***Consolidation***

7.5 There are no plans to consolidate these provisions as the Order simply implements policy to wind up the Authority.

8. Consultation outcome

In this instance formal consultation is not required as the Order implements a policy already announced and debated in Parliament, and will have no impact on the public in general.

9. Guidance

There is no requirement for the Department to provide guidance as the provisions are straightforward and will have no impact on the public in general.

10. Impact

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

10.2 There is no additional impact on the public sector.

10.3 A full impact assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

These provisions aim to ensure that the handover from the Authority to the NEST Corporation is managed smoothly and provides continuity to enable the pension reform programme to remain on track. Plans have been developed that map out the activities necessary to ensure that a handover on the 5th July 2010 from the Authority

to the NEST Corporation is managed effectively. Progress against planned milestones will be reviewed monthly by the Enabling Retirement Savings Programme Management Office.

13. Contact

Isabella Conley at the Department for Work and Pensions Tel: 020 7449 5966 or e-mail:Isabella.Conley@dwp.gsi.gov.uk can answer any queries regarding the instrument.