EXPLANATORY MEMORANDUM TO

THE PUBLIC SERVICE (CIVIL SERVANTS AND OTHERS) PENSIONS (AMENDMENT) REGULATIONS 2019

2019 No. 520

1. Introduction

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

2. Purpose of the instrument

2.1 To amend the Public Service (Civil Servants and Others) Pensions Regulations 2014 ("the 2014 Regulations") made under the Public Service Pensions Act 2013 ("the Act") to make provision for the contributions payable by members of that scheme for the period of 1st April 2019 to 31st March 2020.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure, there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The extent and territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The Act gives the Minister for the Civil Service powers to make and maintain a pension scheme for the Civil Service and certain other (mainly public service) employers.

6.2 The 2014 Regulations established such a scheme, known as the Alpha scheme, which has been in operation since 1st April 2015. Regulation 134 of the 2014 Regulations makes provision for the contributions payable by scheme members.

7. Policy background

What is being done and why

7.1 Consultation in 2011 with the Civil Service unions on reforms to the Civil Service pension arrangements culminated in a Proposed Final Agreement which reflected the

conclusion of discussions on design of the Civil Service scheme. The Proposed Final Agreement stated that average member contributions would be 5.6% of salary.

7.2 The 2014 Regulations established a new Civil Service scheme from 1st April 2015. Regulation 134 of those Regulations makes provision for the contributions payable by scheme members up to 31st March 2019. The contribution rates and associated salary bands set out in Regulation 134 are designed to yield an average of 5.6% of members' salaries. Regulation 134 is silent on the member contribution rates from 1st April 2019, and provision therefore needs to be made for this.

7.3 The purpose of this instrument is to extend (and not alter) the current member contribution rates and associated salary bands for a one-year period from 1st April 2019 until 31st March 2020 to enable the scheme to continue to collect contributions. This extension is intended as an interim measure, until the final outcomes of the actuarial valuation of the Civil Service Pension Scheme are known.

7.4 The Chief Secretary to the Treasury 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 pensions (the "cost control mechanism"). The ongoing actuarial valuation of the Civil Service Pension Scheme had identified that, under the then existing Treasury Directions, the cost of the scheme measured under the cost control mechanism had fallen below the target cost and triggered a requirement to return the scheme to the target cost through improvements to the scheme, such as changes to member benefits or contributions ("the cost cap remedy"). However, the Chief Secretary's Statement advised that a ruling by the Court of Appeal on part of the 2015 pension reforms meant that it was not now possible to assess the value of the current public service pension arrangements with any certainty, and the cost control element of the valuations was being suspended. Once the court outcome is known, consideration will be given to whether the interim member contribution rates and associated salary bands in the Civil Service Scheme should be amended.

7.5 Section 22 of the Act provides for an enhanced consultation and report process in the event of proposed changes to 'protected elements' (such as member contributions and benefit accrual rates) within 25 years of 2015. The presumption is that it is not desirable to make changes to the protected elements within the protected period (which ends on 31st March 2040) unless there is a specific reason for doing so, for example as a result of the cost control mechanism.

7.6 This amendment to the 2014 Regulations relates to a protected element but has the effect of retaining the current member contributions and associated salary bands as an interim measure and ensures that employee contributions can continue to be lawfully deducted from 1st April 2019, thus safeguarding the effective operation of the Civil Service Pension Scheme.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 The Department has no plans to consolidate the legislation at this time.

10. Consultation outcome

10.1 Employee representatives were consulted about these regulations in accordance with section 22 of the Act. One trade union (the National Crime Officer Association) and one staff association (the Defence Police Federation) responded that they had no objections to the proposal to continue with the same level of member contributions and associated salary bands.

10.2 A joint response was received from four trade unions (FDA, PCS, POA and Prospect) which indicated that they were unwilling to agree the proposal unless further assurances were given in respect of the cost cap remedy and, absent those assurances, proposed a counter proposal of a reduction in contribution rates.

10.3 The Cabinet Office carefully considered the response from the FDA, PCS, POA and Prospect, and concluded that they were unable to give the assurances requested. Further, the unions' representations and counter proposal did not persuade the Minister to make any changes to the proposal that was initially consulted on.

11. Guidance

11.1 No guidance has been produced to accompany this instrument, the contents of which are self-explanatory.

12. Impact

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

12.2 There is no impact on the public sector of maintaining the current level of member contributions. The impact of not making these changes would be to compromise the effective operation of the scheme and reduce the income received by the scheme by around £800 million per annum.

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

13. Regulating small business

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

14. Monitoring & review

14.1 The Public Service (Civil Servants and Others) Pensions Regulations 2014 are kept under regular review by the Cabinet Office in its capacity as the pension scheme manager.

15. Contact

15.1 Peter Spain at the Cabinet Office (Telephone: 01256 846428 or email: peter.spain@cabinetoffice.gov.uk can answer any queries regarding the instrument.

15.2 Dominic Arthur, Deputy Director, Civil Service & Royal Mail Pensions, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Oliver Dowden, Minister for Implementation at the Cabinet Office, can confirm that the Explanatory Memorandum meets the required standard.