EXPLANATORY MEMORANDUM TO

THE PUBLIC SERVICE (CIVIL SERVANTS AND OTHERS) PENSIONS REGULATIONS 2014

2014 No. 1964

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 This instrument establishes a scheme for the payment of pensions and other benefits to, or in respect of, civil servants and other Crown employees. This scheme also applies to certain former civil servants and other Crown employees engaged in functions transferred to another employer.

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

3.1 None.

4. Legislative Context

4.1 This instrument implements reforms to public service pension schemes in respect of civil servants and other Crown employees under the powers provided in the Public Services Pensions Act 2013 (the Act).

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 balance 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 are being established for persons in public service. This instrument establishes the reformed scheme for civil servants and other Crown employees. 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 and provisions on governance of the scheme.

5. Territorial Extent and Application

5.1 This instrument applies to 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

7.1 The cost of paying for public service pensions has risen significantly in recent years. This increase in the burden on taxpayers and employers, together with worries over the fairness and sustainability of these pensions, led to the Government setting up the Commission which was tasked with undertaking an independent review of public service pensions and to then make recommendations about how such pensions should be reformed so as to be sustainable and affordable in the long term as well as continuing to be fair to the workforce.

7.2 Following the publication of the final report of the Commission, the Government accepted its recommendations as the basis for discussions with public service workers, trades unions and other member representative bodies. In November 2011, following the discussions, the Treasury set out the Government's preferred pension scheme design as the framework to inform further discussions. Trades unions were invited to suggest changes to this on a workforce specific basis within the cost ceilings set by Government. This led to the publication of scheme specific designs for each of the new schemes. For civil servants and other Crown employees these were published by the Cabinet Office on 9 March 2012 (the Proposed Final Agreement (PFA)) . The PFA described the high level features of the reformed scheme for Civil Servants and other Crown employees. The key items included: a defined benefit pension that would be based on the members' career average salary; that the accrual rate (the amount of pension built up each year) would be 2.32% of pensionable earnings, previous pension accrual to be increased in line with prices; a Normal Pension Age (NPA) equivalent to the member's State Pension Age (SPA); and the facility for the member to retire before or after NPA with their pension adjusted to reflect the different length of time in payment.

7.3 Of the ten trades unions that the PFA was put to, five agreed to the proposal, four rejected it and one reserved their position pending further clarification of an issue specific to their workforce. Only one of the unions has cited the pension reform as part of a dispute with employers (alongside several other issues) and taken strike action on that basis.

7.4 This instrument creates the reformed pension scheme for Civil Servants and other relevant public servants . It gives effect to the position set out in the PFA in line with the recommendations of the Commission.

7.5 Specifically Part 3 sets up the governance arrangements for the scheme while Parts 4 and 5 describe eligibility for membership and how benefits accrue. Parts 6 and 7 provides details on retirement benefits, including on ill health retirement that are payable and benefits for pension credit members, Part 8 covers the benefits payable in the case of the death of a member, Part 9 puts the contribution structure in place, Part 10 covers transfers into, and out of, the scheme and Part 11 puts in place the measures to control the future costs of the scheme. Schedule 1 provides for options for members to purchase additional benefits and Schedule 2 deals with the arrangements needed to cover those members who transition from the PCSPS into CSOPS.

7.6 Of specific interest may be Part 5 that sets out the basic operation of the career average scheme. This provides for each member to build up a pension each year calculated as 2.32% of their pensionable earnings. This pension is held in a pension account and, at the start of each scheme year (1 April), indexation is applied.

7.7 Indexation is only applied to the accounts of active members (that is those members who are participating in the scheme and paying contributions). Deferred (members who were an active member but has since stopped participating in the scheme without applying for benefits) and pensioner (members who have drawn their pensions) members' pensions are increased each year under the provisions of the Pensions (Increase) Act 1971. The rate of indexation for active members will be equal to the change in prices as provided for in an order made by Her Majesty's Treasury under the Act.

7.8 In line with the recommendation of the Commission the normal pension age of the scheme (the age at which a member is entitled to draw their pension without any reduction for early payment) is equal to the state pension age. This is provided for in section 10 of the Public Services Pensions Act 2013..

- Consolidation

7.9 These are the first Civil Service and Others Pension Scheme Regulations created under the powers provided by the Public Service Pensions Act 2013. There is no requirement to consolidate these regulations.

7.10 The continuing process for putting in place the reformed pension arrangements for Civil Servants are expected to lead to the need for further regulations which amend these regulations, to be laid in autumn 2014 and to take effect in 2015.

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 its usual practice established in respect of changes to the existing scheme for civil servants (the Principal Civil Service Scheme (PCSPS)), the Cabinet Office has consulted the representatives of those the Minister considers likely to be affected, that is trades unions. The Cabinet

Office has also consulted relevant employers where there would be specific impacts on that employer's costs or workforces. The Cabinet Office has regularly and consistently engaged with the 7 nationally recognised unions representing the members of the scheme, as well as three other small unions representing departmental specific from autumn 2011 onwards. This has included frequent meetings to discuss the terms of the PFA in late 2011 and early 2012. In total over 50 meetings have been held with union officials to discuss the terms of the scheme. Our consultation process has also included at least seven opportunities across both 2013 and 2014 for the unions to comment on early drafts of the regulations as well as more recent drafts and to discuss the finer points of the implementation of the scheme.

8.2 In the development of the PFA the unions were united in pushing for a lower pension age, no change in employee contribution rates and protection of accrued benefits. There was some interest in the retention of a final salary element to the scheme and in an option of variable levels of contributions to deliver different levels of pension. The PFA represented several changes from the Government's initial position in response to the points raised by the unions. This included a higher accrual rate and lower indexation than originally proposed, a means for members to retire earlier on an unreduced pension if they were to fund the cost and a contribution structure that was slightly progressive net of tax relief.

8.3 In the consultations and discussions over the draft of the regulations the unions made further points and suggestions. These included changes to the contribution structure (leading to the use of actual rather than full time equivalent salaries), slight amendments to how opting out of the scheme is handled and the removal of abatement of pension in the limited circumstances proposed in the PFA.

8.4 Although there has been no, formal, 12 week public consultation on these regulations, the Government has been consulting with the unions on the policy and detail of the regulations since October 2011, a period of over 30 months.

9. Guidance

9.1 A new scheme website will provide members and employers with dedicated information and supportive resources from July 2014. Resources on the site will include presentations, factsheets, videos and modellers. Members will be directed to the information by their employer. Guidance is also being provided to employers directly through an extensive engagement campaign, which includes digital communications, national events and meetings. The purpose of the communications campaign is to ensure members understand how they are affected by the changes, and seeks to support employers with the various IT, payroll and business process changes they need to make to manage the new requirements. The Cabinet Office will encourage employers to implement the communications programme with members.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil. The regulations replace previous pension arrangements for Civil Servants and others.

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

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The instrument includes a requirement for the new pension scheme to be subject to regular actuarial valuations. The instrument also includes provisions triggering changes to the scheme if the costs of the scheme move outside of a fixed range.

13. Contact

Mike Watkins at the Cabinet Office Tel: 020 7271 6379 or email:mike.watkins@cabinet-office.gsi.gov.uk can answer any queries regarding the instrument.