EXPLANATORY MEMORUM TO

THE PUBLIC SERVICE PENSIONS ACT 2013 (AMENDMENT OF SECTION 3) ORDER 2026

2026 No. 611

1. Introduction

1.1 This Explanatory Memorandum has been prepared by HM Treasury and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Lucy Rigby, Chief Secretary to the Treasury at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Rebecca Molyneux, Deputy Director for Workforce Pay and Pensions, at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Thomas Noble at HM Treasury can be contacted by email at the following address with any queries regarding the instrument: thomas.noble@hmtreasury.gov.uk. Alternatively, the department can be contacted by telephone: 07483 482430.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of this Order is to amend section 3(6)(a) of the Public Service Pensions Act 2013 (the "2013 Act") to remove scheme regulations of the Scottish Ministers relating to fire and rescue workers and members of the police force from the list of regulations exempt from the requirement to obtain HM Treasury consent before being made.

4.2 As a result, Scottish Ministers will be required to obtain HM Treasury consent for all scheme regulations made in respect of the Scottish Firefighters' Pension Scheme and the Scottish Police Pension Scheme.

Where does the legislation extend to, and apply?

4.3 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.

4.4 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 purpose of this Order is to support an agreed fiscal arrangement between the UK Government and the Scottish Government to bring police and firefighters' pension

expenditure in Scotland within UK Annually Managed Expenditure (AME), at the request of the Scottish Government.

5.2 In order for Scottish police and firefighters' pension schemes to be appropriately included within UK AME, HM Treasury must have oversight of future scheme regulations with potential fiscal implications. Section 3 of the Public Service Pensions Act 2013 provides a framework for such oversight through the requirement for HM Treasury consent to scheme regulations.

What was the previous policy, how is this different?

5.3 An exemption from this consent requirement previously applied to scheme regulations made by the Scottish Ministers in respect of fire and rescue workers and members of the police force. Removing it enables HM Treasury to exercise the necessary consent function in support of the agreed AME treatment.

5.4 The Order therefore removes the exemption in section 3(6)(a) of the 2013 Act so that all scheme regulations relating to the Scottish Firefighters' Pension Scheme and the Scottish Police Pension Scheme require HM Treasury consent. This ensures the appropriate fiscal oversight required for inclusion within UK AME and brings governance arrangements into line with other public service pension schemes.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 3 of the 2013 Act governs the making of scheme regulations for public service pension schemes.

6.2 Section 3(5) of the 2013 Act provides that scheme regulations may be made only with HM Treasury consent, unless exempted under section 3(6).

6.3 Currently, section 3(6)(a) of the 2013 Act exempts scheme regulations made by the Scottish Ministers for fire and rescue workers and members of the police force.

6.4 This Order omits this exemption, thereby bringing these scheme regulations within the HM Treasury consent framework in line with other public service schemes.

Why was this approach taken to change the law?

6.5 This is the most straightforward approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 As the instrument concerns intergovernmental governance rather than scheme benefits, public consultation was not considered necessary.

7.2 HM Treasury has engaged with the Scottish Government, the Scottish Public Pensions Agency, the Home Office, and the Department for Housing, Communities and Local Government.

8. Applicable Guidance

8.1 No additional guidance is considered necessary. HM Treasury will continue to work with the Scottish Government on the practical implementation of the consent process.

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 the instrument affects only the internal governance of scheme regulation-making and has no direct impact on scheme members, employers, or contribution levels.

9.2 Any additional administrative cost to Scottish Ministers or HM Treasury is expected to be negligible and will be absorbed within existing resources.

Impact on businesses, charities and voluntary bodies

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

9.4 This Instrument does not impact small or micro businesses.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the Instrument does not impose regulatory obligations and therefore no statutory review clause is required. HM Treasury will monitor the operation of the consent process as part of ongoing governance of public service pension schemes.

10.2 This 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 under section 3(7) of the 2013 Act, which provides the Treasury with a power (inserted via section 94(6) of the Public Service Pensions and Judicial Offices Act 2022) to remove any exemptions from the consent requirement in section 3(5).

11.2 The instrument does not amend scheme benefits directly but changes the governance and oversight arrangements applying to future scheme regulations.

12. European Convention on Human Rights

12.1 As the instrument is not subject to parliamentary procedure, no statement is required.

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”).