

EXPLANATORY MEMORANDUM TO
THE PARLIAMENTARY PENSIONS (AMENDMENT) REGULATIONS 2009
2009 No. 1920

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

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

2. **Purpose of the instrument**

- 2.1 This instrument amends the Parliamentary Pension Scheme to change the ill-health retirement provisions, including the introduction of two different levels of benefit depending on the scheme member's incapacity, and the periodic review of ill-health pensions. It also reflects changes made to legislation on the calculation of pension scheme transfer values, clarifies the scheme's definition of the benefits taken into account when calculating the maximum pension payable to a scheme member, and amends the circumstances in which a scheme member may bring a transfer value into the scheme from a personal pension scheme.

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

- 3.1 None.

4. **Legislative Context**

- 4.1 The Parliamentary and other Pensions Act 1987 ("the Act") provides for the existence of the Parliamentary Contributory Pension Fund and confers powers on the Leader of the House of Commons to make regulations making provision for pensions to be payable from the Fund for Members, Ministers and certain other office holders. Such provision has been made via the Parliamentary Pensions (Consolidation and Amendment) Regulations 1993, as amended from time to time (referred to, for ease, as the Parliamentary Pension Scheme).

- 4.2 The Leader of the House of Commons is now making further amendments to the Parliamentary Pension Scheme, with the consent of the Minister for the Civil Service.

- 4.3 Some of the amendments to the Parliamentary Pension Scheme are retrospective. Section 2(4) of the Act permits the Leader of the House of Commons to make provisions which have effect from a date earlier than the date of the making of the regulations containing the provision.

- 4.4 Section 2(7) of the Act requires the Leader of the House of Commons to

consult the Trustees of the Fund and persons appearing to her to represent persons likely to be affected by the amendments.

- 4.5 A resolution of the House of Commons on 17 December 2008 endorsed the changes to the ill-health retirement provisions as part of a package of changes which also included the introduction of a new pension accrual rate [*Hansard columns 1162-1170*]. Amendments to the scheme relating to the latter will be made at a later date, in conjunction with other changes relating to the accrual and member contribution rates agreed by resolution of the House of Commons on 25 June 2009 [*Hansard columns 986-1018*]. With the agreement of the Trustees of the Fund, the changes to the ill-health retirement provisions are being introduced in advance of the other changes.

5. Territorial Extent and Application

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

- *What is being done and why*

- 7.1 Following a review of the ill-health retirement provisions of the Parliamentary Pension Scheme, the Trustees proposed changes to these provisions to the Leader of the House of Commons. In line with the proposals, which were endorsed by the House of Commons in December 2008, the regulations are being amended so that two different levels of ill-health pension are payable depending on the scheme member's level of incapacity, and so that ill-health pensions are reviewed periodically to see whether continued payment is still appropriate.
- 7.2 Under the new arrangements, a more generous level (an upper tier ill-health pension) will be payable to those scheme members who are considered to be permanently incapable of undertaking any form of employment, based on service that they would have completed if they had served until age 65. A lower level (lower tier ill-health pension) will be payable to those scheme members who are considered to be permanently incapable of undertaking the duties of a Member of the House of Commons, but who are capable of undertaking other employment. This lower-tier pension will be based on actual, rather than enhanced, service.
- 7.3 The introduction of a two-tier benefit system and reviews of continued eligibility are consistent with changes made in other public service pension schemes. The Government Actuary's Department estimate that these changes would produce savings of around 0.4% of payroll. The Trustees and the Leader of the House of Commons are keen to end the current arrangements,

and for the instrument to be made, as soon as possible so that the scheme can start making these savings. With that in mind, the instrument provides that scheme members applying to leave on ill-health grounds at the next election will be treated under the new arrangements unless they received notice from the Trustees before 31 May 2009 that they would be eligible for an ill-health pension (in which case the two-tier system would not apply but the pension would be subject to review).

- 7.4 The changes to the ill-health retirement provisions proposed by the Trustees, endorsed by the House of Commons and included in this instrument, also include changes which will tighten up the application process, and make it clearer what tests the Trustees should apply in assessing eligibility.
- 7.5 The changes to the ill-health retirement provisions will not apply to those who have left service before 1 September 2009.
- 7.6 This instrument amends the regulations to reflect changes made to the legislation on the calculation of pension scheme transfer values. The amendments reflect the responsibilities now placed on scheme trustees by the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 (S.I. 2008/1050).
- 7.7 The Parliamentary Pension Scheme regulations provide that retained benefits from other pension schemes are taken into account when calculating the maximum pension payable to a scheme member. This instrument amends the regulations to clarify that benefits from the Parliamentary Pension Scheme itself and from other schemes to which the scheme member makes contributions from his or her salary as a Member of the House of Commons or office holder (for example, benefits from an additional voluntary contribution scheme) should not count as retained benefits. The position was inadvertently made unclear when the relevant provisions were last amended in 2006.
- 7.8 Since 2006, the Parliamentary Pension Scheme regulations have provided that scheme members may only transfer in rights from a personal pension scheme within 12 months of joining the Parliamentary Pension Scheme (or within 12 months of 6 April 2006 if later). The regulations also place restrictions on the amount of added years of service that members can buy to count towards their Parliamentary Pension Scheme pensions, and the timing of such purchases. With no restrictions on the timing of transfers from, or contributions to, personal pension schemes, a member could circumvent the added years' restrictions by making a lump sum contribution into a personal pension at any time and then applying for a transfer value payment into the Parliamentary Pension Scheme.
- 7.9 The Secretariat to the Trustees have advised that some scheme members with personal pensions were unaware of the changes made in 2006 and are now out of time to transfer their rights into the Parliamentary Pension Scheme. This instrument therefore amends the regulations to remove the time limit, but only if the scheme member has not made any contributions to the personal pension since becoming a member of the Parliamentary Pension Scheme (or 6 April

2006 if later). The control to ensure that the restrictions on added years' purchases are not being circumvented is therefore being maintained.

- ***Consolidation***

7.10 The Prime Minister has commissioned the Senior Salaries Review Body (SSRB) to conduct a fundamental review of the pension provision for Members of the House of Commons, Ministers and other Parliamentary office holders. The SSRB aims to report by the end of 2009 and, because it is possible that it will recommend fundamental reform, the Cabinet Office plans to await the outcome of the review before taking forward any consolidation of the Parliamentary Pension Scheme regulations.

8. Consultation outcome

8.1 In December 2008, the House of Commons debated the changes to the ill-health retirement provisions proposed by the Trustees and endorsed them without amendment. As required by the legislation, the Leader of the House has consulted the Trustees and Party representatives about this instrument and they have either indicated that they are content or have made no comment.

9. Guidance

9.1 Any guidance to members of the Parliamentary Pension Scheme will be provided by the House of Commons Pensions Unit.

10. Impact

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

10.2 There is no impact on the public sector.

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 management of the Parliamentary Pension Scheme and any monitoring of the arrangements is the responsibility of the Trustees, but the Senior Salaries Review Body undertake regular reviews of parliamentary pay, pensions and allowances.

13. Contact

Peter Spain at the Cabinet Office (tel: 01256 846428 or email: peter.spain@cabinet-office.x.gsi.gov.uk) can answer any queries regarding the instrument.