

**EXPLANATORY MEMORANDUM TO**  
**THE TRANSFER OF FUNCTIONS (PENSIONS GUIDANCE) ORDER 2015**  
**2015 No. 2013**

**1. Introduction**

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

**2. Purpose of the instrument**

- 2.1 This Order in Council transfers statutory functions relating to pensions guidance from the Treasury to the Secretary of State. The Order also makes supplemental provision in connection with these transfers.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The Order is made under Section 1 of the Ministers of the Crown Act 1975.
- 4.2 Section 1 enables Her Majesty by Order in Council to provide for the transfer to any Minister of the Crown of any functions previously exercisable by another Minister of the Crown.
- 4.3 The section provides that such an Order in Council may contain such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the Order, including provisions for the transfer of any property, rights and liabilities held, enjoyed or incurred by any Minister of the Crown in connection with any functions transferred; and provisions making such adaptations of the enactments relating to the functions transferred as may be necessary to enable them to be exercised by the Minister to whom they are transferred and his officers.
- 4.4 The functions transferred by this Order are the Treasury's functions in relation to pensions guidance under Part 20A of the Financial Services and Markets Act 2000 (c. 8). Part 20A was inserted into that Act by the Schedule 3 to the Pension Schemes Act 2015 (c. 8). Part 20A sets out the Treasury's responsibilities in relation to pensions guidance, including the provision and funding of guidance services; and contains prohibitions and regulatory restrictions in relation to such services, including specific functions of the Financial Conduct Authority (FCA).
- 4.5 The Order transfers these functions from the Treasury to the Secretary of State. Following the transfer, the functions will be exercisable by the Secretary of State for

Work and Pensions. Article 3 of the Order makes supplemental provisions to give effect to the transfer, including amendments to the provisions of Part 20A of the Financial Services and Markets Act to substitute references to the Secretary of State for the existing references to the Treasury.

## **5. Extent and Territorial Application**

- 5.1 The instrument extends to all of the United Kingdom
- 5.2 The instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

- 6.1 The Chancellor of the Exchequer has made the following statement regarding Human Rights:

“In my view the provisions of the Transfer of Functions (Pensions Guidance) Order 2015 are compatible with the Convention rights”.

## **7. Policy background**

### *What is being done and why*

- 7.1 Following the introduction of greater flexibility for holders of defined contribution pensions announced in the 2014 Budget, the ‘Pension Wise’ guidance service was launched in March 2015. The service provides people with free, impartial guidance on their options for disposal of their defined contribution pension pots. Pension Wise can be accessed by those aged 50 and over who are members of defined contribution pension schemes. The guidance is available online or by free appointment. Telephone appointments are delivered by the Pensions Advisory Service, and face to face appointments are delivered by Citizens Advice Bureaux. Pension Wise provides tailored help and highlights the options available, but doesn’t give specific product or provider recommendations. It also stops short of providing financial advice, which must still be delivered by a regulated financial advisor.
- 7.2 Pension Wise is funded by a Levy on the Financial Services Industry, collected by the FCA. Standards for pension guidance are presently set and monitored by the FCA in consultation with the Treasury.
- 7.3 Pension Wise was set up as part of the freedom and choice reforms to defined contribution pension benefits. The Treasury worked closely with DWP in the development of the service, and it is appropriate now that it transfers to DWP for oversight to make use of DWP’s expertise in overseeing operations of this nature. Pension Wise is a stronger strategic fit with DWP departmental objectives and its incumbent capacity and capability to oversee operational delivery of the service.
- 7.4 Moving responsibility for Pension Wise from HMT to DWP was recommended by the Work and Pensions Select Committee so that the department responsible for pensions can oversee this important service. This was supported by the Economic Secretary to the Treasury when giving evidence to the Select Committee in September 2015.
- 7.5 The transfer of responsibility for the delivery of Pension Wise will cover management of the grant agreements and contracts to deliver the service. The service will continue to be delivered through our current delivery partners and there will be no impact on customers or on the delivery of the service.

## **8. Consultation outcome**

8.1 Not relevant in the context of this Order.

## **9. Guidance**

9.1 Not relevant in the context of this Order.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies, other than that the arrangements for the delivery of pensions guidance currently in place between the Treasury and its delivery partners (the Pensions Advisory Service and Citizens Advice Bureaux in England, Wales, Scotland and Northern Ireland) will transfer from the Treasury to the Secretary of State for Work and Pensions.

10.2 There is no impact on the public sector beyond the transfers of functions provided for in the Order.

10.3 An Impact Assessment has not been prepared for this Order as no impact on business is foreseen.

## **11. Regulating small business**

11.1 The Order does not apply to activities that are undertaken by small businesses.

## **12. Monitoring & review**

12.1 There are no plans to monitor or review this Order.

## **13. Contact**

13.1 Amy Shaw or Peter Spence at HM Treasury (tel: 020 7270 5565/ 020 7270 1036) or email: [amy.shaw@hmtreasury.gsi.gov.uk](mailto:amy.shaw@hmtreasury.gsi.gov.uk)/ [peter.spence@hmtreasury.gsi.gov.uk](mailto:peter.spence@hmtreasury.gsi.gov.uk)) can answer any queries regarding this Order.