

EXPLANATORY MEMORANDUM TO
THE NUCLEAR DECOMMISSIONING AUTHORITY (PENSION SCHEME
AMENDMENT) REGULATIONS 2024

2024 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to designate persons required to implement the reform of final salary pension schemes relating to the Nuclear Decommissioning Authority (“NDA”). It also modifies and amends certain statutory pension protections in support of that reform.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales, Scotland and Northern Ireland.

5. European Convention on Human Rights

- 5.1 The Parliamentary Under Secretary of State (Minister for Nuclear and Networks) Andrew Bowie, has made the following statement regarding Human Rights:

“In my view the provisions of the Nuclear Decommissioning Authority (Pension Scheme Amendment) Regulations 2024 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 This SI is being made to enable NDA and Magnox Limited (Magnox Ltd is the registered business, though have rebrand to Nuclear Restoration Services 31st October 2023) to amend relevant NDA pensions schemes and implement CARE-based pension reform in accordance with the broader public sector policy.
- 6.2 The Instrument will also make amendments to the statutory pension protections contained in the Energy Act 2004 and the Electricity (Protected Persons) Pension Regulations 1990 in support of the reforms.

7. Policy background

What is being done and why?

- 7.1 Government policy, led by HM Treasury, is to reform public sector pension schemes by implementing the recommendations from Lord Hutton's review conducted in 2011. This resulted in the Public Service Pensions Act 2013, which reformed the majority of pension schemes within the public service. Government policy is for final salary pension schemes in the public sector to be reformed to a Career Average Revalued Earnings (CARE) based scheme, in line with the Public Service Pensions Act 2013 and over four million public sector workers have already moved to new pension arrangements. Lord Hutton's recommendation for the move to a CARE pension scheme, was considered the fairest way of spreading the effect of change across the generations and represents the quickest way of ending the in-built bias against those public service employees whose pay stays low over their career, inherent in final salary schemes. The Department worked with trade unions to propose and agree a bespoke CARE benefit structure following a statutory consultation in 2017. Since this time, changes in Government and competing legislative priorities have meant a delay in establishing NDA's pension reform.
- 7.2 There are two final salary public sector schemes (with a total of approximately 8000 scheme members) within the NDA's group that are therefore within scope for reform, with estimated savings currently expected to total in the region of £200 million subject to the date of implementation.
- 7.3 The possibility of pension reform for NDA employees who are covered by The Electricity (Protected Persons) (Scotland) Pension Regulations 1990 was not included in the 2018 public consultation as there were so few of them. As such, the legislation will not provide the NDA with the ability to introduce Career Average Revalued Earnings ("CARE") based pension reform for those employees at this time. Should Government wish to change this position it will undertake a full consultation and further regulations.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 None

10. Consultation outcome

- 10.1 Recognising the vital work that the NDA and its workforce delivers, the Department for Business, Energy and Industrial Strategy (as it then was) and the NDA worked with national trade unions in 2017 to develop an agreed pension benefit structure that was tailored to the characteristics of the affected NDA employees. This resulted in a proposed bespoke CARE benefit structure which is in line with the key principles of reforms already implemented in respect of other public sector pension schemes. The bespoke CARE scheme design was formally accepted by the national trade unions following statutory consultation with affected NDA employees and a ballot of union members.

- 10.2 As well as consultation on the new scheme design a public consultation was undertaken and published in May 2018, inviting views from stakeholders about how Government proposed to enable the Nuclear Decommissioning Authority to implement pension reform of the two pension schemes in scope: the Combined Nuclear Pension Plan (CNPP) and the Site Licence Company (SLC) section of the Magnox Electric Group of the Electricity Supply Pension Scheme (MEG-ESPS).
- 10.3 A total of 26 responses were received. Of these, 15 were from individuals including employees of the NDA and its SLC, and members of the CNPP and MEGESPS. Four responses were received from Pension Scheme Trustees and a further five from member representative organisations including a pension association, site stakeholder group and trade unions. The remaining responses were from industry or unknown respondents. The majority of the respondents were not in favour of the reform of the two pension schemes, and many respondents commented that the reform would break promises made by Government. However, some recognised that pension reform was necessary in order to implement Government policy and that the unions had accepted the CARE scheme as achieving the best outcome possible through negotiations.
- 10.4 After taking all the views into account the Government took the decision in December 2018 to introduce legislation to allow the reform to take place. The delay in securing the changes related to the difficulty in securing sufficient Parliamentary time rather than any intention to review the underlying policy.
- 10.5 We have shared our intentions with devolved administrations during passage of the Energy Act 2023 and during the development of secondary legislation.

11. Guidance

- 11.1 This SI only applies to public bodies, namely the Nuclear Decommissioning Authority and its subsidiary, Magnox Ltd. The Department has written to both these organisations setting out the Government's intentions.
- 11.2 As these changes affect 8000 staff, the NDA and Magnox Ltd are implementing a wide-ranging communications campaign with their staff. This includes online and physical meetings, email and mail correspondence and an online portal. Communications will be increased in the run up to the planned implementation date of the 1st April 2024, subject to the successful passage of this legislation.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector is positive as this will reduce costs.
- 12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

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

14. Monitoring & review

- 14.1 This SI only applies to public bodies. The SI will allow the NDA to implement the required pension reform with the target date of the 1st April 2024 to begin implementation. The Government will monitor closely the NDA's progress in

implementing the reform to ensure that changes are made smoothly and in line with expectations. In particular, we will be monitoring the level of savings made from the reform with an expected level of £200m over the lifetime of the schemes which have been closed to new entrants since 2008.

- 14.2 This SI will be used to implement public service pension reform to NDA pension schemes.

15. Contact

- 15.1 Alastair Findlay and Bolade Kerr (NDA Sponsorship team) at the Department for Energy Security and Net Zero (Telephone: 07741 616 058 and 07584 313 563 or email: Alastair.Findlay@energysecurity.gov.uk and Bolade.Kerr@energysecurity.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Umran Nazir, Deputy Director for Nuclear Decommissioning and Radioactive Materials, at the Department for Energy Security and Net Zero can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Minister Andrew Bowie at the Department for Energy Security and Net Zero can confirm that this Explanatory Memorandum meets the required standard.