

# CONSTITUTIONAL REFORM AND GOVERNANCE ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 6: Parliamentary and other pensions*

##### **Part 1: Parliamentary and Other Pensions**

231. *Paragraph 1* of Schedule 6 provides for the Fund to continue.
232. *Paragraph 2* provides that there are to be 10 trustees of the Fund: one person appointed by the IPSA, one person appointed by the Minister for the Civil Service and 8 persons nominated and selected under paragraph 3.
233. *Paragraph 3* provides that the trustees of the Fund must make arrangements for the nomination and selection of member-nominated trustees as provided for in that paragraph.
234. *Paragraph 4* provides that the IPSA may, with the consent of the Treasury, provide for remuneration and allowances to be payable to the trustees out of the assets of the Fund.
235. *Paragraph 5* makes provision in relation to the resignation and removal of the trustees.
236. *Paragraph 6* provides that subject to anything in the administration scheme the trustees may determine their own procedure and that the validity of proceedings of the trustees is not affected by a vacancy among the trustees, or a defect in the appointment of a trustee.
237. *Paragraph 7* makes provision about the powers of the trustees. *Sub-paragraph (1)* provides that the trustees may invest the assets of the Fund. *Sub-paragraph (2)* provides that they may settle or compromise any claim or dispute relating to the Fund, with the consent of the IPSA in relation to the MPs' pension scheme or an administration scheme, and the consent of the Minister for the Civil Service in relation to the Ministers' etc pension scheme. The IPSA must consult the Minister for the Civil Service before consenting to any settlement or compromise in relation to an administration scheme. The [Parliamentary Pensions \(Consolidation and Amendment\) Regulations 1993 \(S.I. 1993/3253\)](#) ("the 1993 Regulations") currently provide that the trustees may settle or compromise any dispute relating to the Fund with the consent of the Leader of the House of Commons. *Sub-paragraph (4)* also provides that the trustees must prepare a statement of investment principles, having consulted the IPSA and the Minister for the Civil Service. Paragraph 10 of Schedule 1 to the 1993 Regulations currently requires the trustees to consult the Leader of the House of Commons.
238. *Sub-paragraph (1) of paragraph 8* provides that the IPSA may, with the consent of the trustees as required by paragraph 9(1), make a scheme containing provision about the administration and management of the Fund, the indemnification of the trustees (and former trustees) and the proceedings of the trustees. *Sub-paragraph (2)* describes what provisions, in particular, may be included in such a scheme, including by reference to

*paragraphs 31 to 33* of the Schedule. Section 2(1) of the 1987 Act currently provides that the Leader of the House of Commons may make provision relating to these matters by regulations, with the consent of the Minister for the Civil Service.

239. *Paragraph 9* provides the procedure for making an administration scheme. *Sub-paragraph (2)* provides that before making such a scheme, the IPSA must consult the Treasury, the Minister for the Civil Service, persons the IPSA considers to represent those likely to be affected, and any other person the IPSA considers appropriate. *paragraph 9(3)* provides that the IPSA must send to the Speaker of the House of Commons for laying before the House of Commons any scheme and a statement of the reasons for making it. Under *sub-paragraph (4)* the IPSA must publish the scheme and statement of reasons.
240. *Paragraph 10* provides for an Exchequer contribution to be paid into the Fund, calculated in accordance with recommendations by the Government Actuary, who is required to make a report to the trustees, the IPSA, the Minister for the Civil Service and the Treasury every three years. Section 3(3) of the 1987 Act currently requires the report to be made to the trustees and the Minister for the Civil Service (further to a transfer of function from the Treasury).
241. *In paragraph 11, sub-paragraph (1)* provides that the IPSA, with the relevant consents, may make provision for determining the Exchequer contribution in respect of any financial year, outside of the procedure described in *paragraph 10*. Under *sub-paragraph (2)*, the IPSA must obtain the consent of the Treasury and the Minister for the Civil Service and, if the Exchequer contribution is less than it would otherwise have been under the procedure set out in *paragraph 10*, the trustees. Under *sub-paragraph (4)* the IPSA must consult the trustees (where their consent is not otherwise required), the Government Actuary and persons appearing to the IPSA to represent persons likely to be affected by the provision. Under *paragraph 11(5)* the IPSA must send to the Speaker of the House of Commons for laying before the House of Commons any provision and a statement of the reasons for making it, together with any representations made by the trustees. Under *paragraph 11(6)* the IPSA must publish the provision and statement of reasons. This provision replaces section 6(1) of the Ministerial and other Pensions and Salaries Act 1991, which provides that the Leader of the House of Commons may, with the consent of the Treasury, make provision by regulations for determining the Exchequer contribution in respect of any financial year where this will not simply be in accordance with recommendations by the Government Actuary.
242. *Paragraph 12(1)* provides that the IPSA may make a scheme containing provision about the provision of pensions out of the Fund in respect of service as an MP. Under *sub-paragraph (2)* such a scheme may not make provision about the provision of pensions for someone with service as Lord Chancellor. Under *sub-paragraphs (3) and (5)* such a scheme may only make provision for someone with service as Prime Minister or Speaker of the House of Commons in respect of service as an MP on or after 28 February 1991. Section 2 of the 1987 Act currently provides that the Leader of the House of Commons may make provision about the provision of pensions in respect of service as an MP (but not for someone with service as Lord Chancellor, and only for the Prime Minister or Speaker of the House of Commons in respect of service as an MP on or after 28 February 1991) by regulations with the consent of the Minister for the Civil Service.
243. *Paragraph 13* defines a person's "service as a member of the House of Commons" by reference to the time that a salary was payable under section 4 of the Parliamentary Standards Act 2009 or, in relation to a time before that section is in force, under resolutions of the House of Commons.
244. *Paragraph 14* describes what provisions, in particular, may be included in MPs' pension schemes, including provisions specified in *paragraphs 24 to 32* of the Schedule. Certain provisions may only be included with the consent of the trustees of the Fund.

245. *Paragraph 15* defines the procedure for making a MPs' pension scheme. *Sub-paragraph (1)* provides that before making such a scheme, the IPSA must consult the Treasury, the Minister for the Civil Service, the trustees, persons the IPSA considers to represent those likely to be affected, the Government Actuary, the Review Body on Senior Salaries and any other person the IPSA considers appropriate. Under *sub-paragraph (2)*, the IPSA must send to the Speaker of the House of Commons for laying before the House of Commons any scheme and a statement of the reasons for making it, together with any representations made by the trustees. Under *sub-paragraph (3)*, the IPSA must publish the scheme and statement of reasons.
246. *Paragraph 16* provides that the Minister for the Civil Service may make a scheme containing provision about the provision of pensions out of the Fund in respect of service as a Minister or other office-holder. *Sub-paragraph (2)* defines the offices concerned, and *sub-paragraph (3)* makes clear that they do not include the Lord Chancellor, Prime Minister or Speaker of the House of Commons. Section 2(1) of the 1987 Act currently provides that the Leader of the House of Commons may make such provision by regulations with the consent of the Minister for the Civil Service.
247. *Paragraph 17* describes what provisions, in particular, may be included in Ministers' pension schemes by reference to *paragraphs 24 to 32* and *34* of the Schedule. Certain provisions may only be included with the consent of the trustees of the Fund.
248. *Paragraph 18* defines the procedure for making a Ministers' pension scheme. *Sub-paragraph (1)* provides that before making such a scheme, the Minister must consult the IPSA, the Government Actuary, the trustees and any other person the Minister considers appropriate. Under *sub-paragraph (2)* the Minister must lay before each House of Parliament any scheme and a statement of the reasons for making it, together with any representations made by the trustees. Under *sub-paragraph (3)* the Minister must publish the scheme and statement of reasons. Section 2(1) of the 1987 Act currently provides that the Leader of the House of Commons may make provision about the provision of pensions for Ministers and other office-holders by regulations, with the consent of the Minister for the Civil Service.
249. *Paragraph 19* makes provision for the protection of accrued rights of scheme members when the IPSA makes a MPs' pension scheme, or where the Minister for the Civil Service makes a Ministers' etc pension scheme. Under *sub-paragraphs (2)* and *(3)* schemes must not make any provision in relation to an accrued right which puts (or might put) a person in a worse position than the person would have been in apart from the provision, unless the trustees of the Fund consent to the scheme making the provision and the person making the new scheme is satisfied that the consent requirements set out in *sub-paragraphs (4)* to *(6)* are met.
250. *Paragraph 20* defines accrued rights.
251. *Paragraph 21* provides that the Minister for the Civil Service may by order modify any enactment or subordinate legislation if he considers it appropriate as a result of any provision of a scheme made by him or the IPSA. Paragraph 13 of Schedule 1 to the 1987 Act (read with section 2 of that Act) currently provides that the Leader of the House of Commons may make such modification by regulations with the consent of the Minister for the Civil Service.
252. *Sub-paragraphs (1)* and *(2)* of *paragraph 22* provide that schemes made by the IPSA or the Minister for the Civil Service can amend or revoke previous schemes made by them.