These notes refer to the Public Service Pensions Act (Northern Ireland) 2014 (c.2) which received Royal Assent on 11 March 2014

Public Service Pensions Act (Northern Ireland) 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Governance

Section 4: Scheme manager

Subsection (1) provides that scheme regulations must provide for a person to be responsible for managing or administering a public service pension scheme set up under the powers in the Act and any other statutory pension scheme connected with it.

That person is referred to in the Act as the "scheme manager" – see subsection (2).

Subsection (3) provides that the scheme manager may, in particular, be the responsible authority (who, under section 2(1), is also responsible for making the scheme regulations which create the scheme). However, the regulations may provide for some other person, or a number of persons, to be responsible for managing or administering the scheme or a part of the scheme.

Subsection (4) provides that regulations for injury or compensation schemes do not have to provide for a scheme manager. Such schemes are outside of the new governance arrangements which the Act requires of public service pension schemes.

Subsection (5) allows scheme regulations to provide for more than one scheme manager in that scheme and for any other statutory scheme connected with it, and for each scheme manager to be responsible for different parts of those schemes.

Subsection (6) explains that another statutory pension scheme is connected with a public service pension scheme set up under section 1 if and to the extent that it provides for persons of the same description, unless the scheme regulations state that the schemes are not to be regarded as connected (see subsection (7)). For example, a public service pension scheme set up for the civil service under the Act would be connected with any existing schemes for the civil service. The effect is that the regulations must set out the person who is to be responsible for running a new pension scheme in respect of persons set out in section 1(2) and any connected predecessor schemes for those persons. This will allow the scheme manager to have administrative responsibility for all relevant existing pension schemes relating to the same service.

Subsection (7) allows for situations where an existing statutory scheme and its successor scheme are not to be managed together for some or all purposes. For example, the new civil service pension scheme is likely to make provision for persons of the same description provided for under existing public body pension schemes. However, it may be appropriate for some of those existing schemes to continue to be managed separately from the new civil service pension scheme.

The scheme manager has certain specific responsibilities under the Act (for example, see sections 14 and 15). Scheme managers, whether or not they are also the responsible authority, will be able to delegate aspects of their management and administration responsibilities if the scheme regulations allow (see paragraph 13 of Schedule 3).

Section 5: Pension board

This section requires public service pension schemes set up under section 1 to establish a pension board. The board's role is to assist the scheme manager in securing the effective and efficient governance and administration of the pension scheme and any statutory scheme connected with it.

The pension board will, in particular, be charged with helping the scheme manager to ensure the scheme is operated to an appropriate standard. It will have the responsibility of assisting the scheme manager in relation to the matters set out in subsection (3). These matters include ensuring that schemes are administered in accordance with all relevant legislation concerning the governance and administration of public schemes and any requirements imposed on the scheme by the Pensions Regulator. The pension board will be required to discharge these functions in relation to a public service pension scheme set up under section 1 and any statutory pension scheme connected with it. This mirrors the provisions for scheme managers. For example, a pension board for a new civil service pension scheme will also be required to assist and advise the scheme manager in respect of existing civil service pension schemes.

In all cases, the scheme manager will retain ultimate responsibility for the administration and governance of the scheme. The role of the pension board is to support the scheme manager in fulfilling that responsibility and, by virtue of subsection (3)(b), in securing compliance with any requirements imposed by the Pensions Regulator. It will be for the scheme regulations and the scheme manager to determine precisely how the pension board carries out its role.

Subsection (2) provides that in the case of a scheme made under section 1(2)(c) for local government workers the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC) may be the pension board.

Subsection (4) provides that when making scheme regulations the responsible authority must have regard to the desirability of securing the effective and efficient governance and administration of the scheme.

Subsections (5) and (6) are concerned with the balance of employer/employee representatives on the pension board and with conflicts of interest. Schemes must have an equal number of persons appointed to represent employees and employers on the board. There are also likely to be other board members representing different interests. Subsections (5) and (6) prevent a person from being a member of a pension board where they have another interest that could prejudice them carrying out the role.

Under subsection (5)(a), the scheme manager (who is responsible for appointing the members of the pension board) must ensure that no conflict of interest exists at the time of appointment and while the member continues to serve. This provision would not prevent a person who is a member of the pension scheme to which the pension board relates (or a representative of members, or of employers) from being a member of the pension board.

Under subsection (5)(b), a prospective pension board member must provide adequate information to the scheme manager to establish that a conflict of interest does not exist.

Under subsection (5)(c), equal numbers of employer and member representatives must be appointed to the pension board. Each category is defined in subsection (7), which provides that employer representatives are persons appointed for the purpose of representing employers for the scheme and any connected scheme, while member representatives are persons appointed for the purpose of representing members of the scheme and any connected scheme. The provision does not mean that the pension board will necessarily consist only of these two groups. Schemes may appoint other persons to their board. For example, it is possible there could be representatives of the responsible authority and the scheme manager as well as independent board members.

Subsection (6) explains that a conflict of interest means a financial or other interest which is likely to prejudice how a member carries out his or her duties (but not a financial or other interest arising merely from membership of the scheme or a connected scheme). This does not include other interests such as a mandate to represent the interests of scheme members or those of employers (which may be relevant but could not be said to be prejudicial).

Subsection (9) exempts injury and compensation schemes from the requirement to have a pension board. Such schemes are not subject to the remit of the Pensions Regulator or the legislation relating to the governance and administration of pension schemes.

Section 6: Pension board: information

This section aims to ensure that information about the pension board is available to scheme members and other interested parties, so that they can easily see and understand: who is a pension board member; how pension scheme members are represented on the pension board; and what the responsibilities of the pension board are.

Section 7: Scheme advisory board

Section 7 requires a scheme advisory board to be established in each pension scheme made under section 1 of the Act. Policy groups have previously been set up under administrative arrangements in the existing public service pension schemes, but this section requires them to be written into the scheme regulations for schemes made under the powers in the Act. The existing policy groups have been set up under administrative arrangements, but this section requires them to be written into the scheme regulations.

The scheme advisory board is distinct from the pension board or boards established under section 5. A pension board exists to assist in the management and administration of the scheme, whereas the scheme advisory board's role will be to advise the scheme manager on the desirability of changes to the scheme. Sections 5 and 7 ensure a clear separation of these roles.

Subsection (1) provides that the scheme regulations must establish a scheme advisory board in each scheme and provides that their role is to advise the responsible authority, at the authority's request, on the desirability of changes to the scheme. The responsible authority may therefore commission the scheme advisory board to advise on any matter in relation to the scheme that the responsible authority considers appropriate. It is open to the responsible authority to set out any commission in the scheme regulations themselves or through any other means they determine. Any commission may be framed as an open request for regular advice on a range of issues, through to a narrow requirement for advice on a specific issue. It will be for each responsible authority to determine what advice the scheme advisory board is responsible for providing.

Subsection (2) allows for the scheme regulations to provide a scheme advisory board with an additional role in the event that schemes will have a number of scheme managers and pension boards. The section provides that the scheme advisory board may be given responsibility to advise them on the effective and efficient administration and management of the scheme, any connected scheme and any pension fund. It will be for the scheme regulations to determine the exact responsibilities of the scheme advisory board, if any, in these areas.

Subsection (3) requires the responsible authority, the scheme managers and pension boards to have regard to advice given to them by a scheme advisory board under subsection (1) or (2). This does not mean that they have to follow the advice of the board, but does mean they must consider the advice, and be able to justify taking a different approach.

Subsections (4) and (5) mirror the conflict of interest requirements placed on pension boards. The provision prevents persons from being a board member where they have a conflicted interest that would prevent them from undertaking the responsibilities of that position.