



## 2014 CHAPTER 2

### *Procedure for scheme regulations*

#### **Consultation**

**21.—**(1) Before making scheme regulations the responsible authority must consult such persons (or representatives of such persons) as appear to the authority likely to be affected by them.

(2) The responsible authority must publish a statement indicating the persons that the authority would normally expect to consult under subsection (1) (and keep the statement up-to-date).

(3) Subsection (1) may be satisfied by consultation before, as well as by consultation after, the coming into force of this section.

#### **Procedure for protected elements**

**22.—**(1) This section applies where, after the coming into force of scheme regulations establishing a scheme under section 1, the responsible authority proposes to make further scheme regulations containing provision changing the protected elements of the scheme within the protected period.

(2) The responsible authority must—

(a) consult the persons specified in subsection (3) with a view to reaching agreement with them, and

(b) lay a report before the Assembly.

(3) The persons referred to in subsection (2)(a) are the persons (or representatives of the persons) who appear to the responsible authority to be likely to be affected by the regulations if they were made.

(4) The report under subsection (2)(b) must set out why the responsible authority proposes to make the regulations, having regard to the desirability of not making a change to the protected elements of a scheme under section 1 within the protected period.

(5) In this section—

“protected period” means the period beginning with the coming into force of this section and ending with 31 March 2040;

“protected elements”, in relation to a scheme under section 1, means—

- (a) the extent to which the scheme is a career average revalued earnings scheme;
- (b) members’ contribution rates under the scheme;
- (c) benefit accrual rates under the scheme.

(6) In this section, references to a change to the protected elements do not include a change appearing to the responsible authority to be required by or consequential upon section 12 (employer cost cap).

(7) In a case where this section applies, there is no requirement to consult under section 21(1).

### **Procedure for retrospective provision**

**23.—**(1) Where the responsible authority proposes to make scheme regulations containing retrospective provision which appears to the authority to have significant adverse effects in relation to the pension payable to or in respect of members of the scheme, the authority must first obtain the consent of the persons referred to in subsection (3).

(2) Where the responsible authority proposes to make scheme regulations containing retrospective provision which appears to the authority—

- (a) not to have significant adverse effects as specified in subsection (1), but
- (b) to have significant adverse effects in any other way in relation to members of the scheme (for example, in relation to injury or compensation benefits),

the authority must first consult the persons specified in subsection (3) with a view to reaching agreement with them.

(3) The persons referred to in subsections (1) and (2) are the persons (or representatives of the persons) who appear to the responsible authority to be likely to be affected by the provision if it were made.

(4) The responsible authority must, in a case falling within subsection (1) or (2), lay a report before the Assembly.

(5) In a case falling within subsection (1) or (2) there is no requirement to consult under section 21(1).

**Other procedure**

**24.—**(1) Scheme regulations are subject to the affirmative procedure (see section 35(1)) if—

- (a) they amend primary legislation,
  - (b) section 23(1) or (2) (procedure for retrospective provision having significant adverse effects) applies, or
  - (c) they are scheme regulations for a scheme relating to holders of judicial office, unless the pension board for that scheme has stated that it considers the regulations to be minor or wholly beneficial.
- (2) Scheme regulations are subject to negative resolution in any other case.
- (3) If scheme regulations otherwise subject to negative resolution are combined with scheme regulations subject to the affirmative procedure, the combined regulations are subject to the affirmative procedure.