

COMMITTEE FOR FINANCE AND PERSONNEL

Judith Finlay
DFP Assembly Section
Clare House
303 Airport Road West
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BT3 9ED

10 October 2013

Dear Judith,

Public Service Pension Bill

Arising from the Committee's on-going deliberations, a number of drafting points and other issues have been identified in respect of provisions contained within the Public Service Pensions Bill.

In order to assist the Committee in its considerations, I would be grateful if the Department would provide a response to each of the queries detailed below:

Insertion of an Overview Clause

- 1) Given that this is an enabling bill, what would be the Department's view on an amendment to insert an overview/purpose clause at the beginning of the Bill, setting out the guiding principles or policy objectives which the subsequent subordinate legislation should follow?

Clause 1 – Schemes for persons in public service

- 2) What would be the Department's view on an amendment to subsection (1) as follows:

'Regulations may establish schemes for the payment of pensions and other [insert 'similar'] benefits to or in respect of persons specified in subsection (2).'

- 3) What would be the Department's view on amendments to subsection (2) as follows:

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- Paragraph (c): replace ‘local government workers’ with “local government staff” to avoid including people working in the local government sector who are not employees (e.g. contractors). Similarly with ‘health service workers’ at (e);
- Paragraph (d): replace ‘teachers’ with ‘teachers in the public sector’ to clarify that the provision does not cover teachers within private schools;
- At the end of subsection (2) consider adding a provision to cover any other classes of persons specified by order in accordance with clause 25.

Clause 3 – Scheme Regulations

- 4) What would be the Department’s view on an amendment to subsection (3), paragraph (c) to leave out ‘allow any person to exercise a discretion’?

If the Department considers this provision necessary, what clarification can be provided on how much discretion can be exercised under this provision? Can some examples be provided of how this discretion could be exercised?

- 5) Subsection (4) – Does the Department consider that an amendment is needed to clarify that the consequential amending provision does not apply to this Act?

Clause 5 – Pension Board

- 6) Subsection (3) – What clarification can the Department provide on how ‘securing compliance’ can be shown and on what safeguards exist to protect people from scheme mismanagement?
- 7) Subsection (4) – What stronger term can the Department offer to replace ‘desirability’?
- 8) Subsection (5), paragraphs (a) and (b) – What is the Department’s view on an amendment to create it an offence for a member of a board to not declare any conflict of interest? What are the sanctions for failure to comply with paragraph (b)?
- 9) Subsection (5), paragraph (a), subparagraph (ii) – What is the Department’s view on replacing ‘satisfied from time to time’ with a specified time period (e.g. every three months)?

Clause 8 – Types of scheme

- 10) Subsection (2) – What is the Department’s view on an amendment to insert ‘to any extent’ after ‘benefits scheme’?

- 11) Subsection (5) - What is the Department's view on an amendment to require the regulations to be made by affirmative rather than negative resolution, given that this goes to the heart of the Bill?

Clause 9 – Revaluation

- 12) Subsection (1), paragraph (a) – What is the Department's view on an amendment to clarify that the revaluation is required 'at specified periods'?
- 13) Subsection (1), paragraph (b) – What is the Department's view on an amendment to clarify that the revaluation should be by reference that *reflects* changes in prices or earnings...?
- 14) Subsection (3) – How would the Department respond to the view that this provides DFP with too much discretion?
- 15) Subsection (4), paragraph (b) – What is the Department's view on an amendment to leave out 'may make different provision for different purposes'?

Why does the Department consider that the power to 'make different provision for different purposes' is required?

- 16) Subsection (5) (b) – What clarification can the Department provide on the application of this provision in circumstances where the order is specifying a percentage increase which would result in a decrease in real terms?

Clause 10 – Pension age

- 17) Subsection (1), paragraphs (a) and (b) – How does the Department consider this provision might be clarified or is there a choice on offer?

Clause 11 – Valuation

- 18) Subsections (2), (3) and (4) – What justification does the Department have for these powers of direction and why is it required to consult only with the Government Actuary?

Clause 12 – Employer cost cap

- 19) Subsection (8), paragraph (a) – What is the Department's view on the need for including the term 'or supplementary'?

Clause 14 – Information about benefits

- 20) Subsection (1), line 24 – Does the Department intend to table an amendment to insert ‘a’ after 'which is'?
- 21) Subsection (6) – Would the Department be willing to table an amendment to require that the directions must aim to ensure that the benefit information statement is provided in such a manner so that the scheme members are reasonably able to understand it?

Clause 23 – Procedure for retrospective provision

- 22) Subsection (2), paragraph (b) – What is the Department’s view on an amendment to delete ‘significant’ on line 20?
If the Department is not in agreement, what clarification can be provided on the test/meaning of ‘significant’ in this provision?
- 23) Given that this clause also deals with ‘accrued rights’, what is the Department’s view on an amendment to replace ‘with a view to reaching agreement’ with 'and reach agreement' at lines 23-24 in subsection (2)?

Clause 36 – Commencement

- 24) What consideration has the Department given to the possibility that the commencement provision at line 29 in clause 36, subsection (3), paragraph (b) conflicts with the retrospective provision in clause 23?

Given the time constraints of Committee Stage and the need to avoid any undue delay, I would greatly appreciate your response by **Friday 18 October 2013** in order to assist the Committee in its deliberations on the Bill.

Yours sincerely,

Shane McAteer
Committee Clerk