PENSION SCHEMES BILL 2025
Supplementary Delegated Powers Memorandum in relation to Amendments 194 to 202 (proposed Chapter 2A of the Bill)

PURPOSE AND EFFECT OF CHAPTER 2A

1. This supplementary Memorandum was prepared by the Ministry of Defence and relates to the clauses tabled for insertion as Chapter 2A of Part 4 of the Bill. This Chapter provides for the establishment of a new public pension scheme for the beneficiaries of the AWE Pension Scheme, and the transfer of the scheme assets to the Secretary of State.

2. AWE plc (the Atomic Weapons Establishment) is an arm's length Non Departmental Public Body, wholly owned by the Ministry of Defence (MOD). AWE plc has a defined benefit pension scheme, the AWE pension scheme, which was closed to future accrual for almost all members in 2017. The AWE pension scheme is a defined benefit trust-based occupational pension scheme, which was established in April 1993 to provide benefits for employees who had transferred from public sector employment. It is a funded scheme, which also benefits from an unlimited Crown Guarantee, issued by the Ministry of Defence (MOD) in July 2022.

3. In her Budget on 26 November 2025, the Chancellor, as part of her focus on efficiencies and savings, confirmed a further £2 billion of asset disposals to ensure that liabilities are funded in the most efficient way and that accordingly, the liabilities held by the AWE pension scheme should no longer be pre-funded. This is in accordance with principles in Managing Public Money, which provide that where financial risk is borne by the government, the liability should not be funded. The funds could instead be put to alternative use with greater societal returns, and the liability or risk could be more efficiently managed in the round with other unfunded liabilities and met out of general taxation when they fall due. The Budget makes it clear that "*This does not change the government's obligation to pay the liabilities when they are due, nor does it change the terms or benefits of pension scheme members*.".

4. It is an objective of the Budget measure that asset disposals should begin as soon as possible, and in any event within the next financial year, allowing the money locked within the fund to be used more effectively elsewhere in the public sector. The Government will also establish a new public pension scheme into which the qualifying accrued rights of members will be transferred. The draft clauses contain explicit protection for the accrued rights of members which are transferred into the new scheme, and potentially adverse amendments to that scheme once established will be subject to enhanced consultation and procedural requirements. This embodies in legislation the Budget commitment set out above.

5. The model confers powers on the Secretary of State to make this provision by way of regulations, reflecting the approach taken in public sector pension scheme legislation, under which detailed scheme rules are set out in secondary legislation (see, for example, sections 1 and 3 of the Public Service Pensions Act

2013 and the Armed Forces Pension Regulations 2014 (S.I. 2014/2336). Scheme rules are detailed and technical in nature and may require amendment regularly to reflect changes in the law and policy: it is therefore considered inappropriate for them to be contained in primary legislation. The rules of the new scheme established under these clauses will mirror the rules of the AWE pension scheme, with the appropriate modifications to reflect its new status as an unfunded public scheme. This approach is also based on precedent in Part 2 of the Postal Services Act 2011 in relation to the Royal Mail Pension Plan on privatisation, and in Part 2 of the Public Service Pensions and Judicial Offices Act 2022 in relation to the Bradford and Bingley Staff and Northern Rock Asset Management pension schemes, which are currently underwritten by Government.

6. The draft clauses do include Henry VIII powers to modify the application of the law for the following purposes:
    a. ensure that the new scheme can be treated as an occupational pension scheme, a previously contracted out scheme or a registered pension scheme for specified purposes;
    b. to ensure that the Trustee's position is protected once assets are sold, by modifying the application of various statutory and other obligations relating to investment; and
    c. to ensure that the implementation of the policy is tax neutral for the parties.

7. The powers to modify legislation at 6(a) and(c) above mirror powers that were taken in both the Postal Services Act 2011 (see sections 17 and 23) and the Public Service Pensions and Judicial Offices Act 2022 (see sections 112 and 117). An example of how we expect to use these powers can be found in articles 9 and 10 of, and Schedule 4 to, the Postal Services Act 2011 (Transfer of Accrued Pension Rights) Order 2012 (S.I. 2012/687).

8. The Henry VIII powers described at paragraph 6(b) above are found in subsection (3) of the new clause, *Transfer of Assets and Liabilities*. They apply where regulations make provision for the purposes in subsection (2) of that clause, or otherwise in connection with the transfer of assets and liabilities under this clause. The AWE pension scheme may remain in existence for a considerable period of time after the assets are sold and will be administered by the Trustee during this period. The purpose of both subsection (2) and the powers in subsection (3) is to protect the Trustee of the pension scheme if it is instructed to sell the assets before the new public scheme is established and it is discharged from its liabilities in respect of the scheme. Without further steps, the Trustee would be in breach of a number of statutory and common law duties: for example, the obligations under the scheme funding regime in Part 3 of the Pensions Act 2004. An example of the kind of provision that may be necessary can be found at paragraph 11 of Schedule 3 to the Bradford & Bingley plc Transfer of Securities and property etc. Order 2008 (S.I. 2008/2546).

9. The government expects to use the powers in subsection (3)(c) to (e) of this clause to ensure that the Trustee will be protected from adverse consequences that might arise because they have complied with a direction to sell assets under

this clause. We will work closely with the Trustee and AWE plc (as the employer) to identify the relevant legislation and will consult with them on the exercise of the powers before the regulations are made. Regulations made under these powers will be subject to the affirmative procedure.

Delegated Powers: Summary

10. Chapter 2A contains six delegated powers: five exercisable by the Secretary of State and one by the Treasury. A summary of each power is set out below, with further detailed analysis in the Annex to this Memorandum.

11. ***Establishment of new public scheme and transfer of rights***
    a. This clause confers powers on the Secretary of State to establish a new public scheme by regulations for the purpose of providing pensions and other benefits to members of the AWE pension scheme.
    b. Regulations made under this section are generally subject to the negative procedure, unless they are amending regulations that:
        i. have retrospective effect, or
        ii. may adversely impact the accrued rights of members and require a specific procedure (the consent requirements),

       in which case they are subject to the affirmative procedure.
    c. This is the usual way in which public sector schemes are established: their rules are set out in secondary legislation, made usually by the Secretary of State responsible for the scheme.

12. ***Protection against adverse treatment: transfer of rights***
    a. Regulations under this section may make provision for the way in which the value of rights or entitlement to money purchase benefits transferred from the AWE pension scheme to the new scheme is to be determined. This is required to ensure that the value of benefits under the new scheme are at least equivalent to the existing rights at the date of the transfer.
    b. These regulations will be subject to the negative procedure.
    c. The investments may change over time: taking a power to specify the procedure in regulations means that the Secretary of State can specify the most appropriate method at the time of transfer.

13. **Transfer of assets and liabilities**
    a. This section allows the Secretary of State to make regulations dealing with the disposal of the pension scheme assets. As the disposal of assets will begin before the establishment of the new scheme, regulations under this section must also ensure that the scheme liabilities are met, and that the Trustee will not be in breach of legal duties by complying with the Secretary of State's directions.
    b. In general, regulations are subject to the negative procedure, unless they are disapplying or modifying the application of the law, when they are subject to the affirmative procedure.
    c. This section ensures that the Secretary of State will be able to direct disposal of the assets, and ensure that the Trustee is not prejudiced by compliance.

14. **Taxation**
   a. This section enables the Treasury to make regulations that will affect the way in which a relevant tax has effect, to ensure that the establishment of the new scheme and disposal and transfer of the assets is tax neutral for affected parties.
   b. Regulations are subject to annulment by the resolution of the House of Commons.
   c. This will allow the Treasury to ensure that the necessary provision can be made, based on the situation that exists at the relevant time.

15. **Information**
   a. Regulations under this section may require specified persons to provide documents or information to the Secretary of State for the purpose of making regulations and establishing the new scheme. They may include provision for imposing a financial penalty for failure to comply.
   b. Regulations under this section are subject to the negative procedure, unless they make provision for the financial penalty, in which case they are subject to the affirmative procedure.
   c. Regulations under this section will ensure that information required for the purposes of this Chapter will be shared.

ANNEX: DELEGATED POWERS

New Clause: Establishment of new public scheme and transfer of rights

Power conferred on: The Secretary of State

Power exercised by: Regulations made by statutory instrument

Parliamentary Procedure: Negative procedure, unless regulations amending the new scheme are subject to the consent requirements under clause [*Protection against adverse treatment: amendment of new public schemes*] or have retrospective effect, in which cases the affirmative procedure applies.

Context and Purpose:

1. This clause provides that the Secretary of State may make regulations:
    a. to establish a new public scheme to provide for pensions or other benefits to be payable to or in respect of persons who are or have been members of the AWE pension scheme ("qualifying persons");
    b. to transfer qualifying accrued rights from the AWE pension scheme to the public scheme and discharge the AWE Pension Trustee of its liability in respect of the qualifying accrued rights; and
    c. to describe or specify the qualifying time for the transfer of benefits from the AWE pension scheme to the new public scheme.

2. Subsection (2) confers a power on the Secretary of State to make regulations transferring qualifying accrued rights from the AWE pension scheme to the new scheme. Subsection (3) enables the Secretary of State to make regulations that discharge the AWE Pension Trustee of its liabilities in respect of the qualifying accrued rights which are transferred to the new scheme. The power to transfer accrued rights may be exercised without any requirement to obtain the approval or consent of anyone. However, clause [*Regulations*](1) provides that the Secretary of State must consult the AWE Pension Trustee before making regulations which establish the new public scheme or transfer qualifying accrued rights to the new public scheme.

3. Clause [*New public scheme: further provision*] makes provision for a number of ancillary or consequential matters which may be included in regulations made under this clause, in addition to the two main powers described above.

4. Subsection (1) of clause [*New public scheme: further provision]* makes it clear that regulations may make provision:
    a. for pensions or other benefits to be payable to or in respect of some or all persons described in clause [*Establishment of new public scheme and transfer of rights*](1);
    b. for defined benefit pensions, defined contribution pensions or both;
    c. for increasing the amounts payable in respect of qualified accrued rights;
    d. for the payment and receipt of transfer values; and
    e. for provision to be made for active members of the AWE pension scheme after the transfer of qualifying accrued rights.

5. The new scheme will not fall within the existing definition of '*occupational pension scheme*' or '*public service pension scheme*' under section 1(1) of the Pension Schemes Act 1993, as it will not have been established by an employer for its employees. As a result, pensions legislation would not apply to the new scheme in the same way as it applies to other schemes in the public sector. Subsection (2)(a) of clause [*New public scheme: further provision]* addresses this issue and regulations may provide that the new scheme be treated as an 'occupational pension scheme' for the purpose of any legislation specified in the regulations.

6. Some benefits in the AWE pension scheme are contracted-out benefits. Subsection 2(a) and (b) of clause [*New public scheme: further provision]* enables the Secretary of State to provide for the new scheme to be treated as a contracted-out scheme for the purposes of any enactment that provides for contracted-out pensions within the meaning of Part 3 of the Pension Schemes Act 1993. This is to ensure that the legislation on contracting-out continues to apply to those who had contracted-out benefits under the AWE pension scheme.

7. Subsection (3) of clause [*New public scheme: further provision]* provides that regulations under subsection (1) of this clause which amend the new public scheme may have retrospective effect. Such powers are standard in public service pensions legislation. For example, it may be necessary to amend scheme rules to reflect a court's finding that a particular rule is discriminatory. (For a recent example, see section 3(3)(b) of the Public Service Pensions Act 2013.)

8. Subsection (4) of clause [*New public scheme: further provision]* provides that regulations may confer functions on the Secretary of State or another person and may provide for that person to exercise discretion in dealing with a matter. This would enable the Secretary of State, or the person administering the scheme, to make their own decisions within a framework set by scheme regulations. This is a standard provision for public pension schemes – see section 3(3)(c) of the Public Service Pensions Act 2013, which enables regulations to confer discretion on Ministers and scheme managers of public service pension schemes within the scope of that Act.

9. Under subsection (6) of clause [*New public scheme: further provision]*, the Secretary of State may delegate the administration of the new scheme to another person. This would enable the Secretary of State to delegate the administration of the scheme to those with the correct expertise, e.g. a professional pension scheme administrator.

Justification for taking the power:

10. It is standard practice for the rules of public pension schemes to be set out in secondary legislation, known as scheme regulations.
    a. Such rules are generally detailed and technical in nature, governing a range of matters, from the benefits that accrue to members under the scheme to the way in which schemes are managed and operated.

b. The new scheme rules will be based on the rules of the current scheme, as well incorporating the additional protections in clauses [*Protection against adverse treatment: transfer of rights*] and [*Protection against adverse treatment: amendment of new public schemes*] in a format suitable for legislation. The current rules are around 140 pages long, and we anticipate that the new scheme regulations are likely to be at least that length as well. This level of detail is inappropriate to be set out in primary legislation.
c. It is also in the nature of scheme regulations that they will need to be amended from time to time to reflect changes in the law, such as those arising out of a court decision or changes in pension law, as well as changes in policy relating to active members.

11. The precise timing of the transfer has not yet been agreed: it will be dependent on a number of factors, including an agreed version of the rules and completion of arrangements to ensure seamless transfer and administration of benefits between the existing scheme and the new scheme. As the precise date of the transfer is not yet known, the "qualifying time" cannot be stated on the face of the Bill.

12. In light of the nature of the provision to be set out in secondary legislation, and in accordance with the usual practice for public pension schemes, we consider that it is appropriate for the rules to be set out in secondary legislation.

Justification for the procedure:

13. The regulations establishing the new scheme are subject to the negative procedure, under clause [*Regulations*](7).
    a. The power is narrow in scope and application – it provides for a new scheme to be established only to pay benefits to members of the AWE pension scheme, and their dependants. It would not be possible to use this power to provide for another scheme to pay pensions relating to another entity. The regulations will set out the scheme rules but will not have implications for wider pensions law or the operation of other public service pensions.
    b. Subsections (1) and (2) of clause [*Protection against adverse treatment: transfer of rights]* provide that, when making regulations under clause [*Establishment of new public scheme and transfer of rights*] that transfer qualifying accrued rights to a new public scheme, the Secretary of State must ensure that the provision of pensions or other benefits contained in the new public scheme is, in all material respects, at least as good immediately after the regulations are made as they were immediately before that time. In addition, subsections (1) and (3) require that the value of any money purchase rights after transfer is at least equivalent to the value of the entitlements prior to the transfer. These provisions protect the qualifying members of the AWE pension scheme by ensuring that the scheme regulations establishing the new scheme cannot adversely impact their accrued rights.

14. Amending regulations under this clause, which do not fall under clause [*Regulations*](3)(a) or (b) (i.e., adverse impact or retrospective), will also be

subject to the negative procedure. This is in line with the usual procedure for public pension schemes – see section 24 of the Public Service Pensions Act 2013.

15. Subsection (3) of clause [*Regulations*] provides that amending regulations that make certain provision are subject to the affirmative procedure.
    a. Subsection (1)(a) of clause [*Protection against adverse treatment: amendment of new public schemes*] provides that amendments to the scheme regulations that would or might adversely affect qualifying accrued rights can only be made where the consent or procedure requirements are satisfied. Subsections (2) and (4) of that clause provide that these requirements are, respectively, those specified in regulations for the purposes of obtaining the consent of interested persons, and for steps to be taken before a scheme can be amended. The rationale and justification for setting out the consent and procedure requirements in regulations are explained later. Clause [*Regulations*](3)(a) provides that amending regulations that would engage the consent requirements are subject to the affirmative resolution procedure.
    b. Amending regulations that have retrospective effect are subject to the affirmative resolution procedure under Clause [*Regulations*](3)(b).

16. Given the narrow scope of the power and the protections in place for qualifying members of the AWE pension scheme, we consider that it is appropriate that the affirmative resolution procedure would apply only where exercise of the powers to amend the new scheme would have retrospective effect or trigger the consent requirements, and the negative resolution procedure applies in all other cases. This reflects provision made for similar cases under section 119 PSPJOA 2022.

New Clause: Protection against adverse treatment: transfer of rights

Power conferred on: The Secretary of State

Power exercised by: Regulations made by statutory instrument

Parliamentary Procedure: negative procedure

Context and Purpose:

17. This clause sets out the requirements that must be met when transferring the qualifying accrued rights of the members of the AWE pension scheme. Members of the AWE pension scheme may have benefits purchased by way of additional voluntary contributions which are money purchase benefits.

18. Subsection (3) provides that where the qualifying accrued rights are money purchase benefits, the value of the rights or entitlements to such benefits under the new scheme as a result of the transfer must be at least equivalent to the value of the qualifying accrued rights that are transferred.

19. Subsections (4) and (5) of the clause confer a power on the Secretary of State to make regulations about the determination of rights and entitlements for the purposes of subsection (3), including specifying the person by whom the valuation may be made and the manner in which the valuation may be determined. Subsections (5)(b) and (6) enable the Secretary of State to make provision for the date or period in which the transferring rights are valued, which must be no more than 3 months before the date of transfer.

Justification for taking the power:

20. Members of the AWE pension scheme with money purchase benefits (likely to be benefits purchased through additional voluntary contributions) have their contributions invested by a third party. As these investments change over time, it is not possible to determine with certainty who will be best placed to perform the valuation or the method by which the assets should be valued. It is also likely that the funds will be invested in a range of assets. Different valuation methods would be required to value listed stocks than would be used to value an option contract or a corporate bond. Taking a power to specify the valuer and methodology in regulations allows the Government to determine the best valuer and methodology at the time of the transfer and to set out the various methods that will be employed.

Justification for the procedure:

21. We consider that the negative procedure is appropriate here as this is a narrow power that can only be used to determine the valuation method and valuer of rights as this relates to the transfer of money purchase benefits to the new public scheme.

New clause: *Transfer of assets and liabilities*

Power conferred on: The Secretary of State

Power exercised by: Regulations made by statutory instrument

Parliamentary Procedure: Negative procedure, unless provision is made under subsection (3)(c), (d) or (e) of this clause, in which cases the affirmative procedure applies

Context and Purpose:

22. The underlying context for this measure is that the AWE pension scheme, although a funded scheme, is nevertheless also underpinned by a Crown Guarantee, issued by the Ministry of Defence. As set out in the Budget on 26 November 2025, it is a general principle that the government does not pre-fund future liabilities. The purpose of this clause is to ensure that the assets of the scheme can be disposed of expeditiously, in accordance with the Budget objective.

23. Subsection (1) allows the Secretary of State to make regulations that transfer the assets and liabilities of the AWE pension scheme to the Secretary of State, a nominee of the Secretary of State or Treasury, or a company established by the Secretary of State or Treasury for the purpose of holding the assets or the liabilities pending their disposal or discharge.

24. In order to meet the policy objectives of the Budget, the intention is that the trust assets should be disposed of as soon as possible. It will not be possible to bring forward regulations under clause [*Establishment of new public scheme and transfer of rights*] within the same timeframe. Accordingly, subsection (2) provides that where any assets of the AWE pension scheme are transferred, regulations must also make provision to ensure that the Trustee will be able to meet any liability it has or may have, or that any such liability is met by the Secretary of State or the Treasury.

25. Subsection (3) makes ancillary and consequential provision for the exercise of the regulation making powers under subsections (1) and (2). Powers in subsection (c) and (d) are Henry VIII powers, as discussed at paragraphs 8 and 9 of the supplementary memorandum. Subsection (3)(a) provides that the regulations may include directions to the Trustee or AWE plc: this will allow government to instruct the Trustees to dispose of scheme assets. However, once the Trustee begins to dispose of assets, they may then be deemed to be in breach of statutory duties (eg in relation to scheme funding), as well as common fiduciary duties. As the Trustees will be acting in accordance with the instructions of government, we consider that it is appropriate for them to be protected from the consequences of compliance with government instructions. Accordingly, regulations under subsections (3)(b) to (d) may exempt the Trustee or AWE plc from liability as result of such compliance and modify the application of specified statutory provisions or common law rules. Provision under subsection (3)(e) may ensure that no legal proceedings (such as proceedings for winding up) may be brought in relation to actions taken under these regulations.

26. Under subsection (1) of clause [*Regulations*], the Secretary of State must consult with the Trustee before making regulations under this clause.

Justification for taking the power:

27. The purpose of Subsections (2) and (3) of this clause is to ensure that the Trustee and AWE plc are protected from any liability that may otherwise arise as a result of their compliance with instructions from government in relation to the transfer of assets and liabilities. We expect that several sets of regulations may be made under this clause and the precise nature of the provision required may vary, depending on what is being transferred.

Justification for the procedure:

28. The negative resolution procedure is proposed in relation to regulations which do not include provision under subsection (3)(c) to (e). Clause [*Regulations*](1)(b) provides that the Trustee must also be consulted before

regulations that transfer the assets and liabilities are made. This provides protection to members of the AWE pension scheme, and their survivors.

29. The affirmative procedure will apply where regulations under this clause contain provision made under subsection (3)(c) to (e). This provision will ensure that the application of certain legislation and rules of law (such as the scheme funding regime under Part 3 of the Pension Act 2004 or fiduciary duties relating to funding) can be modified to protect the Trustee from potential liability when they comply with directions under the regulations.

30. We note that powers taken in section 116 PSPJOA 2022 and section 21(1) of the Postal Services Act 2011, which provided the transfer of assets and liabilities to Government are subject to the negative procedure.

New clause: Taxation

Power conferred on: HM Treasury

Power exercised by: Regulations made by statutory instrument

Parliamentary procedure: Subject to annulment in pursuance of a resolution of the House of Commons

<u>Context and Purpose:</u>

31. The powers in this clause are intended to enable the Treasury to make modifications to tax law so that those in scope of the clause do not incur a liability to pay tax that would not have arisen but for the exercise of powers under this Chapter.

32. Subsection (1) allows the Treasury to make regulations to vary the way in which relevant taxes would impact on the new scheme, members of the new scheme; survivors of members of the new public scheme who have rights or entitlements under the scheme, or the Secretary of State or a nominee of the Secretary of State or the Treasury. Under subsection (2), such regulations may include provisions treating the new public scheme as a registered pension scheme for the purposes of Part 4 of the Finance Act 2004. This would ensure continuity with the current position of the AWE pension scheme.

33. Subsection (3) enables the Treasury to make regulations to vary the way in which relevant taxes would have effect in relation to or in connection with anything done under this Chapter in relation to the AWE pension scheme, the Trustee; AWE plc, the Secretary of State and members of the AWE pension scheme with qualifying accrued right or their survivors.

34. Subsection (4) provides that regulations under this clause may modify the application of certain tax provisions, modify the consequences of certain actions for tax purposes and provide for the withdrawal of relief and the charging of a relevant tax.

35. Subsection (5) enables regulations under this Clause to have retrospective effect, except where the regulations make provision for withdrawing a tax relief or charging a relevant tax. This is because it may not always be possible to identify where a tax has had an impact which needs adjustment ahead of time. These regulations will not be able to impose a liability to pay tax retrospectively.

36. Regulations under this clause are subject to the negative procedure in the House of Commons only.

<u>Justification for taking the power:</u>

37. The amendments that will need to be made to tax law will only be identifiable at the time at which regulations are made under clauses [*Protection against adverse treatment: amendment of new public schemes*], [*New public schemes: further provision*] and [*Transfer of assets and liabilities*].

38. As the establishment of the new scheme and transfer of rights will take place some time after the Royal Assent of this Bill, a power is being taken to disapply specified taxes with respect to the transfer so that the instrument can reflect the latest tax law at the time. We consider that it would be inappropriate to put the specific provision on the face of the Bill as such provision may well be out of date or incorrect by the time of the relevant transfer. Correcting provisions on the face of the Bill would require further primary legislation which we consider disproportionate when the aim of the provision is to ensure that parties in scope of the Chapter do not suffer any adverse tax consequences as a result of the measure. Providing for the relevant taxes to be disapplied by regulations provides us with the ability to reflect any changes to tax legislation between the Assent of the Bill and the making of the relevant regulations.

39. Furthermore, the mechanics of transferring members of the AWE pension scheme and the assets of that scheme may incur tax liabilities for the members, the new scheme, the AWE pension scheme and the Trustee. In order to ensure that those in scope are not adversely affected, this power will be used to ensure that the entire process will be tax neutral for the persons and bodies involved.

40. A similar power was taken in section 117 of PSPJOA 2022 and section 23(1) and (3) of the Postal Services Act 2011 to facilitate the transfer of members of the Royal Mail Pension Plan to a new Government scheme.

<u>Justification for the procedure:</u>

41. The purpose of these provisions is to enable the Treasury to make regulations to make sure that those in scope of this clause do not incur tax liabilities that would not have arisen but for the exercise of powers under this Chapter.

42. This clause would enable modifications to the application of primary legislation; however, annulment in pursuance of a resolution of the House of Commons is still considered appropriate because the purpose of the clause is to keep the tax

position as close to possible as it would have been but for the exercise of powers under this Chapter. In this regard, where the exercise of the powers under this clause would involve the withdrawal of a tax relief or imposition of a relevant tax, such provision may not be retrospectively applied.

43. We note that the powers taken in section 117 of PSPJOA 2022 and section 23(1) and (3) of the Postal Services Act 2011 were also subject to annulment in pursuance of a resolution of the House of Commons.

New clause: Information

Power conferred on: The Secretary of State

Power exercisable by: Regulations made by statutory instrument

Parliamentary Procedure: Negative, unless making provision for the amount of a financial penalty, in which case the affirmative procedure applies

Context and Purpose:

44. The purpose of this clause is to ensure that the Secretary of State has all the information necessary to ensure a smooth and seamless transfer to the new scheme.

45. Subsection (1) allows the Secretary of State to make regulations requiring specified persons to provide documents or other information specified in the regulations to him. Regulations under subsection (1) may only make provision for information that the Secretary of State reasonably requires for the purposes of making regulations under this Chapter; for establishing or administering a new public scheme, including transferring qualifying accrued rights to such a scheme.

46. Subsection (3)(a) and (b) provide that regulations may make provision for the time at which information must be provided and the form and manner in which it is provided.

47. Subsection (3)(c) enables the Secretary of State to make regulations imposing a financial penalty upon a person who, without reasonable excuse fails to provide information to the Secretary of State. Clause [*Regulations*](4) provides that regulations that make provision for the amount of the financial penalty will be subject to the affirmative procedure.

Justification for taking the power:

48. Subsections (1) and (3) enable the Secretary of State to make detailed provisions about the documents and information that the Secretary of State reasonably requires for the purposes specified in subsection (2); the persons who must provide that information; the time in which it must be provided; and the form and manner in which it must be given. We consider that it is appropriate that regulations should be used to make detailed provisions such as these.

49. We consider that it is necessary to include enforcement measures to ensure compliance with regulations requiring information to be provided. The circumstances under which a financial penalty may be imposed are set out on the face of the Bill, in subsection (3)(c). The persons upon whom the penalty may be imposed is to be specified in regulations under subsection (1). The level of any penalty, and provision for appeal to a court of tribunal will also be contained in regulations, to ensure that they are fair and transparent.

Justification for the procedure:

50. We consider that the negative resolution procedure is appropriate here as this power is narrow in its application: regulations may only be made in respect of information that is reasonably required for the purposes specified in subsection (2). This is subject to one exception.

51. The affirmative procedure will apply where regulations specify the financial penalty that may be imposed, where the condition in subsection (3) has been satisfied.