

PENSION SCHEMES BILL 2025

Supplementary Delegated Powers Memorandum

A. INTRODUCTION

1. This supplementary memorandum has been prepared by the Department for Work and Pensions (“DWP”) for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Pension Schemes Bill (“the Bill”).
2. It supplements the previous memoranda submitted and published on 5 June 2025, 5 December 2025, and 3 February 2026.

B. PURPOSE AND EFFECT

3. This memorandum addresses the Government amendments tabled at Lords Report stage.
4. This supplementary memorandum explains why powers have been amended, why new powers have been introduced, and provides the justification for the procedures selected.
5. In respect of the Government amendments tabled in relation to the pension arrangements relating to the Atomic Weapons Authority, the Committee is referred to the supplementary memorandum already submitted to the Committee and published on 3 February 2026.

C. DELEGATED POWERS SUMMARY

6. A summary of the delegated powers is set out below, with further detailed analysis provided in the Annex to this Memorandum.

Value for Money - Part 2, Chapter 1

7. ***Amendment to commencement provision.***

- a. Previously, the Value for Money measure was to commence on Royal Assent. This has been amended to commence by regulations. This will provide flexibility and make it possible to bring parts of the Value for Money measure into force at different times.

Small Pots - Part 2, Chapter 2

8. Determination of destinations for small pots (minor and technical)

- a. A minor and technical amendment has been made to a single word in this clause: instead of confirming that a person “specified” as a destination proposer may be a body corporate, the clause now confirms that a person “prescribed” may be a body corporate. This change has no substantive effect on the scope of the power; the change is to ensure that a person can be identified by their role/function (for example, the “holder of a small pot”), rather than a specific person having to be identified in the regulations.

Scale Measures – Part 2, Chapter 3

9. Aligning provision about approvals across the Scale requirement, the Transition pathway and the New Entrant Pathway (minor and technical)

- a. Minor and technical amendments are made to new section 28E (transition pathway relief) and new section 28F (new entrant pathway relief) inserted into the Pensions Act 2008 by clause 40(12). These amendments grant the Secretary of State the power to make regulations that provide for the withdrawal of approval for a scheme under each pathway by the appropriate regulator. Regulations may in particular provide for: steps that the regulator must take before deciding to withdraw approval; minimum periods between notification of withdrawal and the effective date of the withdrawal; steps schemes must take when it is likely that approval will be withdrawn; and the imposition of penalties not in excess of £100,000 (and appeal routes for these fines).
- b. The purpose of granting these powers to the Secretary of State is to fully align the approval process under the transition and new entrant pathways with the approach taken under section 28A (MSDA approval: relevant Master Trusts). The Bill already provided that withdrawal of approval in respect of 28E and 28F was possible, and it is right that the regulator’s role in this respect should be consistent across the clause.
- c. As with other regulations made under new sections 28E and 28F, these will be subject to the affirmative parliamentary procedure and before making any regulations the Secretary of State will be under the duty to consult with whoever he considers appropriate.

Guided Retirement – Part 2, Chapter 6

10. Amendment to definition of “eligible member” (minor and technical)

- a. A minor and technical amendment has been made to the definition of “eligible member”. Instead of referring to “any member who is accruing or entitled to benefits falling with paragraph (a) of the definition of “money

purchase benefits”, it now refers to “any member who is accruing xxx benefits falling within paragraph (a) of the definition of “money purchase benefits”. This amendment clarifies the drafting to ensure that the definition includes deferred members.

Superfunds – Part 3, Chapter 4

11. Amendment to definition of “protected liabilities threshold”

This amendment provides that the protected liabilities threshold in Part 3 (superfunds) will be met if the total value of the assets of the relevant scheme and the capital buffer exceeds a percentage of the scheme’s protected liabilities specified in regulations made by the Secretary of State

Investment Duties - Part 4, Chapter 3

12. Investment principles and choosing investments: guidance

- a. This Amendment inserts a new section into the Pension Act 1995 requiring the Secretary of State to issue guidance explaining aspects of the law relating to investment principles and choosing investments as set out in Pension regulations.
- b. Guidance issued under this section is not subject to a formal Parliamentary procedure.

ANNEX: DELEGATED POWERS

Amended clause: 23(4) Small pots – definition of “prescribed person” when making determination of destination

Power conferred on: The Secretary of State.

Power exercised by: Regulations made by Statutory Instrument.

Parliamentary Procedure: Affirmative resolution procedure for first use. Negative procedure for subsequent use unless in respect of the requirement to prescribe a person to perform the functions in clause 23(1).

Context and Purpose:

1. Clause 23 requires regulations to prescribe a person, or persons, to be responsible for various functions that will enable pots to be transferred. Such a person is described in clause 23(5) as a destination proposer. Clause 23(4) enables a destination proposer to be a body corporate established by or under the regulations. This would, for example, enable the regulations to appoint authorised consolidator schemes as a destination proposer, or to require them to establish an entity that would be the/a destination proposer.
2. A minor and technical amend has been made to a single word in clause 23(4): instead of confirming that a person “specified” as a destination proposer may be a body corporate, the clause now confirms that a person “prescribed” may be a body corporate. This change has no substantive effect on the scope of the power; the change is to ensure that a person can be identified by their role/function (for example, the “holder of a small pot”), rather than a specific person having to be identified in the regulations.

Justification for taking the power:

3. No substantive change to the power; the amendment is minor and technical (please refer to the Delegated Powers Memorandum filed with Parliament dated 5 December 2025 for further information).

Justification for the procedure:

4. No change to the power (please refer to the Delegated Powers Memorandum filed with Parliament dated 5 December 2025 for further information).

Amended clause: Clause 40(12) – new sections 28E(7) and 28F(3) – withdrawal of approval by the Regulator

Power conferred on: The Secretary of State.

Power exercised by: Regulations made by Statutory Instrument.

Parliamentary Procedure: Affirmative resolution procedure.

Context and Purpose:

5. The scale measures in Chapter 3 of Part 2 will require Master Trust schemes and Group personal pension schemes to obtain approval from the appropriate regulator in order to be used by employers to meet the employer duty under the automatic enrolment framework. This approval can be given on the basis that the either scheme meets a scale threshold £25 billion and complies with other relevant criteria, the scheme qualifies for a transition pathway, or that the scheme qualifies for a new entrant pathway.
6. Minor and technical amendments are made to new sections 28E(7) and 28(3), inserted into the Pensions Act 2008 by clause 40(12), to enable the Secretary of State to make regulations about the process by which the approval of a scheme under the transition pathway or the new entrant pathway can be withdrawn.

Justification for taking the power:

7. The regulator plays a key role across the scale measures in assessing whether particular schemes have achieved scale and meet the relevant entry conditions for the transition and new entrant pathways. Regulators will also play a key role in monitoring whether schemes continue to meet these requirements and if a scheme does not meet these requirements they will, ultimately, be able to withdraw their approval. Secondary legislation is necessary to provide the technical provision that underpins this role. In particular these regulations are expected to cover: the steps that the regulator must take before deciding to withdraw approval; minimum periods between when notice of withdrawal is given and the time it takes effect; steps that schemes must take after receiving notice that approval is likely to be withdrawn; penalties (up to £100,000) that may be issued by regulators to schemes in relation to a failure to comply with any of these steps; and the rights of schemes to appeal penalties to tribunals.
8. It is appropriate that this detail about enforcement is left to secondary legislation: it is technical in nature and it is right that it should be subject to consultation with

regulators and the industry to ensure that the steps that regulators are able to take are practical and adaptable to the realities of pension scheme administration.

9. The powers in 28E(7) and 28F(3) are identical to the powers in new sections 28A(10) and (11) and 28B(10) and (11). This will help to ensure that regulators take a consistent approach to withdrawal of approval across the whole of the scale measures.

Justification for the procedure:

10. The affirmative procedure is the same procedure applied to almost all regulations made across clause 40, and in particular is identical to the procedure applicable to the making of any regulations under new sections 28A(10) and (11), and 28(10) and (11). This procedure ensures that any regulations will be subject to a high level of Parliamentary scrutiny.

Amended clause 49(7) Default pension benefit solutions – definitions

Power conferred on: The Secretary of State.

Power exercised by: Regulations made by Statutory Instrument.

Parliamentary Procedure: Affirmative resolution procedure.

Context and Purpose

11. Clause 49(7) provides definitions of the phrases “eligible member” and “relevant scheme” for the purpose of the Chapter.
12. A minor and technical amendment has been made to the definition of “eligible member” to clarify, as has always been the policy position, that it includes deferred members. There is a power to except certain members from the definition so that they are not deemed eligible members. The amendment thus impacts this power by broadening the scope the phrase “eligible member”.

Justification for taking the power

13. The justification for taking the power remains as it stands in the Delegated Powers Memorandum filed with Parliament dated 5 December 2025. Any exemptions to the definition of eligible member will be technical in nature and so suited to secondary legislation. Addressing exemptions of this sort in secondary

is in keeping with established practice in pensions legislation, and taking the power provides flexibility so that the law can be adapted if necessary.

Justification for procedure

14. No change to the procedure (please refer to the Delegated Powers Memorandum filed with Parliament dated 5 December 2025 for further information).

Amended clause: 71(4) “The protected liabilities threshold” definition

Power conferred on: Secretary of State

Power exercised by: Secretary of State

Parliamentary Procedure: Affirmative

Context and Purpose:

15. *The amendment to clause 71(4) of the Bill provides that the protected liabilities threshold in Part 3 (superfunds) will be met if the total value of the assets of the scheme and the capital buffer exceeds a percentage of the scheme’s protected liabilities specified in regulations made by the Secretary of State. This will enable the threshold to be set at a level above, equal to or below the scheme’s protected liabilities.*

Justification for taking the power:

16. *The amendment will allow greater flexibility so that the protected liabilities threshold can be set at a level above, equal to or below the scheme’s protected liabilities. This flexibility will help to ensure that superfunds are not required to wind up prematurely when they can still pay full benefits. The Government will consult further on the basis for setting the protected liabilities threshold in regulations to ensure that an appropriate level of security for members is maintained, whilst ensuring the future viability of the superfund market.*

Justification for the procedure:

17. *Regulations made under the amended clause 71(4) will continue to be subject to the affirmative procedure.*

New Clause: (To be inserted after Clause [117]) Investment principles and choosing investments: guidance

Power conferred on: The Secretary of State

Power exercised by: The issuance of guidance

Parliamentary Procedure: None applicable

Context and Purpose:

18. A new section 36ZA will be inserted into the Pension Act 1995 (PA95) to require the Secretary of State to issue guidance to explain such aspects of the law contained in regulations made under s.35(4) and section 36(1) of the PA95, relating to investment principles and choosing investments, as the Secretary of State considers appropriate.

Justification for taking the power:

19. Regulations made under 35(4) and 36(1) of the PA95 include [The Occupational Pension Schemes \(Investment\) Regulations 2005](#). Guidance will ensure that scheme trustees and managers fully understand what is required of them under these regulations and will aid with interpretation when complying with their duties. Setting it out in guidance allows for appropriate stakeholder consultation and enables that guidance to be readily updated to reflect new developments, respond to new risks or address any future areas of uncertainty that may arise.
20. There is an increasing need to set out how environmental, social, governance and other factors that extend beyond immediate financial returns can have a financially material impact on investment decisions and the guidance can therefore, in particular, explain the meaning of expressions in the regulations, such as “financially material considerations” (including “environmental, social and governance considerations”) and “best interests of members”.

Justification for the procedure:

21. It is appropriate for guidance to be prepared by the Secretary of State as it relates to legislative requirements. Scheme trustees and fund managers must have regard to the guidance, but the guidance will not impose any other requirements on scheme trustees and managers, and it is therefore not considered necessary for it to be subject to a formal Parliamentary procedure. The Secretary of State is required to consult before the guidance is issued and lay the guidance before Parliament.

Amended clause: 122, Commencement

Power conferred on: The Secretary of State

Power exercised by: Regulations made by Statutory Instrument

Parliamentary Procedure: None applicable

Context and Purpose

22. The Secretary of State has the power to commence Part 2, Chapter 1 (Value for Money) by regulations.

Justification for taking the power

23. Flexibility is needed to bring the Value for Money measure into force at a time which is appropriate for the market. The measure originally commenced on Royal Assent. However, after considering feedback, it has been determined that it may be necessary to bring elements of the Value for Money framework into force in stages. Taking the power will enable this.

Justification for the procedure

24. This follows standard practice for commencement regulations.