

EXECUTIVE COUNCIL

CONFIDENTIAL

Title of Report: Pension Funds (Actuarial Reviews) Bill
Paper No: 7/12
Date: 25 January 2012
Report of: Attorney General

1.0 Purpose

The purpose of this paper is to seek Executive Council's approval for draft legislation that would allow independent actuaries other than the UK Government Actuary to be engaged to carry out reviews under the Pensions (Old Scheme) Fund Ordinance and the Retirement Pensions Ordinance.

2.0 Recommendations

2.1 Executive Council is recommended to approve the publication in *Gazette* of the Pension Funds (Actuarial Reviews) Bill. A draft of that Bill is attached to this paper.

2.2 Executive Council is also recommended to approve the presentation of the Pension Funds (Actuarial Reviews) Bill to Legislative Assembly in February 2012.

3.0 Summary of Financial Implications

None

4.0 Background

4.1 At its meeting on 26 October 2011, Executive Council considered ExCo paper 238/11.

4.2 Among the recommendations approved by Executive Council was one that the Pensions (Old Scheme) Fund Ordinance and the Retirement Pensions Ordinance should be amended to provide that actuarial reviews under those Ordinances need no longer be carried out by the UK Government Actuary, due to poor performance, but would still have to be carried out by an independent actuary.

4.3 The attached Bill would implement that decision by amending section 5 of the Pensions (Old Scheme) Fund Ordinance and section 19 of the Retirement Pensions Ordinance.

4.4 Clause 4 of the Bill would also amend section 19 of the Retirement Pensions Ordinance to make it clear that the Financial Secretary is responsible for arranging the reviews in the same way as under section 5 of the Pensions (Old Scheme) Fund Ordinance.

4.5 Unlike the corresponding provision in the Pensions (Old Scheme) Fund Ordinance, section 19 of the Retirement Pensions Ordinance does not make it clear who is responsible for ensuring that actuarial reviews taking place. That has not been a problem while only the Government Actuary can carry out the review. However, it becomes a problem if the review simply has to be carried out by any independent actuary. Clause 4(2) deals with that issue.

5.0 Financial Implications

None

6.0 Legal Implications

The legal implications of this paper are set out in section 4.

7.0 Human Resources Implications

None

Pension Funds (Actuarial Reviews) Bill 2012

(No: of 2012)

(assented to: 2012)

(commencement: on publication)

(published: 2012)

A BILL

for

AN ORDINANCE

To amend the Pensions (Old Scheme) Fund Ordinance (No 7 of 1999) and the Retirement Pensions Ordinance (No 20 of 1996) in relation to actuarial reviews of the Pensions (Old Scheme) Fund and the Pensions Equalisation Fund.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Pension Funds (Actuarial Reviews) Ordinance 2012.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Amendment of section 5 of the Pensions (Old Scheme) Fund Ordinance

Section 5 of the Pensions (Old Scheme) Fund Ordinance is amended by —

- (a) omitting “the Government Actuary in the United Kingdom” and substituting “an independent actuary”; and
- (b) omitting “Government Actuary’s” and substituting “actuary’s”.

4. Amendment of section 19 of the Retirement Pensions Ordinance

(1) This section amends section 19 of the Retirement Pensions Ordinance.

(2) Subsection (1) is repealed and the following subsection substituted —

“(1) The Financial Secretary must arrange for —

- (a) the operation of this Ordinance during the five year period ending on 31st December 2011 (and each five year period afterwards) to be reviewed by an independent actuary; and
- (b) the actuary to report to the Governor on —

- (i) the financial condition of the Pensions Equalisation Fund; and
- (ii) the adequacy or otherwise of the contributions payable under this Ordinance to support the pensions payable under this Ordinance out of the Fund.”

(3) Subsection (3) is repealed.

OBJECTS AND REASONS

This Bill would amend the Pensions (Old Scheme) Fund Ordinance (No 7 of 1999) and the Retirement Pensions Ordinance (No 20 of 1996).

Both Ordinances currently provide for actuarial reviews to be carried out by the UK Government Actuary. These reviews have to be carried out every 3 years for the Pensions (Old Scheme) Fund and every 5 years for the Pensions Equalisation Fund.

Clauses 3 and 4 would amend section 5 of the Pensions (Old Scheme) Fund Ordinance and section 19 of the Retirement Pensions Ordinance to provide that these reviews need not be carried out by the Government Actuary but must still be carried out by an independent actuary.

Clause 4 would also amend section 19 of the Retirement Pensions Ordinance to make it clear that the Financial Secretary is responsible for arranging the reviews in the same way as under section 5 of the Pensions (Old Scheme) Fund Ordinance.