

**5. Public Sector Pensions (Amendment) Bill 2019 –  
Second Reading approved**

Mr Henderson to move:

*That the Public Sector Pensions (Amendment) Bill 2019 be read a second time.*

**The President:** We turn to the final Item, Public Sector Pensions (Amendment) Bill.  
Mr Henderson, please.

**Mr Henderson:**

425 Gura mie eu, Eaghtyrane.

I am pleased to move the Second Reading of the Public Sector Pensions (Amendment) Bill 2019.

The objective of the Public Sector Pensions (Amendment) Bill 2019 is to amend the Public Sector Pensions Act 2011.

430 The Public Sector Pensions Act 2011 is the statutory basis for the Isle of Man's public sector pension schemes. This short amendment Bill seeks to improve upon its provisions by: amending section 3 of the Act which sets out how schemes for the judiciary are made; amending sections 4 and 6 which contain the provision for making schemes, so that they include pension regulations and orders in the definition of schemes; and amending section 15 to amend the Tynwald procedure for schemes that make administrative changes to schemes, i.e. those that do not  
435 amend contribution or pension accrual rates.

Stakeholder consultation took place on this amendment Bill, with seven responses, including a collective response from members of the judiciary.

440 This Bill neither introduces changes to current schemes nor gives new or different powers to the Public Sector Pensions Authority (PSPA), but it amends the current Act in light of the experience of having to progress pension changes through it.

Eaghtyrane, I beg to move the Public Sector Pensions (Amendment) Bill 2019 be read for a second time.

445 **The President:** Miss August-Hanson.

**Miss August-Hanson:** I beg to second and reserve my remarks. Thank you, Mr President.

450 **The President:** I put the question that the Public Sector Pensions (Amendment) Bill be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

**Public Sector Pensions (Amendment) Bill 2019 –  
Clauses considered**

**The President:** We turn to clauses. Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I am pleased to move on to the clauses stage of this Bill.

455 As mentioned, it contains seven clauses which seek to remove the requirement to obtain consent for the making of pension schemes for future new members of the judiciary; to extend

the definition of pension schemes and to provide for the amendment of existing schemes; to amend Tynwald procedures for making orders, regulations and schemes.

460 Eaghtyrane, I would like to move clauses 1 and 2 together as they are introductory in nature. I am, however, happy to have them voted on separately if Hon. Members are content.

**The President:** Are we content? (**Members:** Content.)

Mr Henderson.

465 **Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 1 gives the short title of the resulting Public Sector Pensions (Amendment) Act 2019 and will cover those pension schemes made under the Public Sector Pensions Act 2011.

470 Clause 2 sets out when the Bill shall come into operation when one or more orders are made by the PSPA. The power includes provision to make consequential, incidental, supplemental and transitional provisions in connection with its commencement.

I beg to move that clauses 1 and 2 do stand part of the Bill.

**The President:** Miss August-Hanson.

475 **Miss August-Hanson:** I beg to second and reserve my remarks. Thank you.

**The President:** I put the motion that clauses 1 and 2 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

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**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 3 confirms that the Bill will amend the Public Sector Pensions Act 2011 and the amendments are set out in the following clauses.

I beg to move that clause 3 do stand part of the Bill.

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**The President:** Miss August-Hanson.

**Miss August-Hanson:** Thank you, Mr President.

I beg to second and reserve my remarks.

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**The President:** I put clause 3. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

495 **Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 4 repeals section 3(2)(a) of the Public Sector Pensions Act 2011 for future new members of the judiciary.

Section 3 of the Act sets out the specific groups of public servants that the Public Sector Pensions Act 2011 applies to.

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The purpose of clause 4 is two-fold. Firstly, it revokes the section that states that the consent of the Judges of the High Court, within the meaning of section 3(1) of the High Court Act 1991, the Attorney General and the Solicitor General for the Island is required for the making of a superannuation scheme in respect of those persons. With the repeal of this provision, the consent of these individuals to make changes to schemes will no longer be required. Secondly, the amendment also has the effect which is to insert a saving clause to the repeal of this

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provision, but only for the current members of the judiciary identified in the High Court Act 1991.

510 For the avoidance of doubt, clause 4 revokes the current clause only for those new individuals who are appointed to such posts once the Bill has been enacted. For the current Judges of the High Court, the Attorney General and the Solicitor General who are still in post, the current section 3(2)(a) of the Act will continue to apply. Therefore, for the time they remain in the scheme their consent will still be required for the making of a superannuation scheme in respect of these individuals.

515 Eaghtryane, I beg to move that clause 4 do stand part of the Bill.

**The President:** Miss August-Hanson.

**Miss August-Hanson:** Thank you, Mr President.  
I would like to second and reserve my remarks.

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**The President:** I put the motion that clause 4 do stand –  
Sorry, Mr Cretney.

525 **Mr Cretney:** I just wondered, the Hon. Member towards the end of his remarks said ‘for the time being’, does he have any idea when that situation will cease and everybody will fall under the Act?

**The President:** Mr Henderson to reply.

530 **Mr Henderson:** Yes, essentially the current serving members of the judiciary will still have to consent to any changes. The changes will then apply to any new appointees, so however long it takes to reappoint new positions going forward, is the answer to the question. So however long the current members are serving, until they retire and then we get a new person in post, so it is on that rolling basis.

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**The President:** I put the question that clause 4 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 5.

540 **Mr Henderson:** Gura mie eu, Eaghtryane.

545 Clause 5 amends section 4 of the Public Sector Pensions Act 2011. Section 4 provides the definitions of a number of the terms used within the Public Sector Pensions Act 2011 and clause 5 amends section 4 to clarify and extend the definition of ‘scheme’ to include superannuation provisions originally made by orders or regulations before the Public Sector Pensions Act 2011 was in operation, such as the Police Pension Regulations or Teachers Superannuation Order, which are treated as a scheme validly made under the 2011 Act.

550 Whilst the pension arrangements for police and teachers have been deemed to have been made by the PSPA, currently it has to update the appropriate orders and regulations via an amending scheme. This adds an unnecessary layer of complexity; for example, rather than Police Pension (Amendment) Regulations, changes need to be made through a Police Pensions (Amendment) Regulations Scheme.

Going forward, extending the definition in this amendment makes it more straight forward as it enables the PSPA to make amending regulations and orders as well as schemes.

555 Eaghtyrane, it is important to note that whilst this clause extends the definition of schemes to include orders and regulations, in doing so it does not extend the powers of the PSPA beyond those already in place, namely to make pension provisions for public servants.

I beg to move that clause 5 do stand part of the Bill.

560 **The President:** Miss August-Hanson.

**Miss August-Hanson:** I would like to second and reserve my remarks, Mr President.

**The President:** I put the question that clause 5 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

565 Clause 6.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 6 amends section 6 of the Public Sector Pensions Act 2011.

570 Section 6 sets out the specific functions of the new PSPA. The key roles are to manage, administer and maintain public sector pension schemes for which it is responsible, and in accordance with the legislation that underpins those schemes.

575 Firstly, turning to section 6(1)(c), this sets out that the final decision on the approval of new or amending statutory legislation for existing schemes lies with Tynwald. However, this is considered superfluous as the procedure for the making of the schemes, orders and regulations, which includes gaining Tynwald approval, is already set out in more detail in section 15 of the Public Sector Pensions Act 2011.

580 I am aware that clause 7 seeks to amend section 15 of the Act. However, whether or not clause 7 is approved, the omission of section 6(1)(c) is still considered to be appropriate. For the avoidance of doubt, I would assure Hon. Members that clause 6 does not mean that the PSPA can amend schemes without Tynwald approval as this is covered in section 15.

Secondly, clause 6 also inserts into section 6 of the Public Sector Pensions Act 2011 a new subsection (1A) and ties in with clause 5.

585 This amendment clarifies that the Public Sector Pensions Authority is able to amend existing schemes, which are treated as schemes made under the Public Sector Pensions Act 2011 but were originally made by orders or regulations, and if amended will enable the PSPA to make amending orders and regulations, rather than just schemes.

In addition, clause 6 will apply retrospectively to apply to the regulations and orders that have already been made by the PSPA but prior to the application of the extended definition of schemes, as amended under clause 5, for the purposes of this Act.

590 Eaghtyrane, I beg to move that clause 6 do stand part of the Bill.

**The President:** Miss August-Hanson.

595 **Miss August-Hanson:** I would like to second and reserve my remarks. Thank you, Mr President.

**The President:** I put the motion that clause 6 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

600 Clause 7.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 7 substitutes section 15 of the Public Sector Pensions Act 2011 with a revised section 15.

605 Section 15 of the Public Sector Pensions Act 2011 enables the PSPA to make schemes and regulations that enable the introduction or application of a new scheme or an amendment to a current scheme. It sets out the actions required to be carried out in relation to schemes or regulations made under the Act, in particular, the requirement that schemes should be laid before Tynwald, but if they are not approved they shall cease to have effect.

610 Clause 7 revises section 15 to provide a Tynwald procedure which is dependent upon the nature of the amendment, with new schemes, orders or regulations and those amendments that introduce substantial change to the benefits or structure of schemes made under the Act being subject to the affirmative procedure. However, those amendments that are considered to be administrative in nature would fall under the negative procedure.

615 I would like to assure Hon. Members that this amendment is not seeking to put in place a procedure that can be utilised to introduce any form of change by stealth. This amendment is seeking to reduce the burden upon Tynwald time in respect of changes to schemes which are only administrative in nature.

Sir, I beg to move that clause 7 do stand part of the Bill.

620 **The President:** Miss August-Hanson.

**Miss August-Hanson:** I would like to second and reserve my remarks.  
Thank you, Mr President.

625 **The President:** I put the question that clause 7 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Mr Henderson.

**Public Sector Pensions (Amendment) Bill 2019 –  
Standing Orders suspended to allow Third Reading**

630 **Mr Henderson:** Eaghtyrane, I beg your indulgence, sir, and that of the Hon. Council, and was wondering if I could put a short motion to Council which would be that if there is Council agreement, I could move to the Third Reading of this Bill, which is only very short in nature.

It has been consulted upon; no contentious issues, but would help in the administrative process in the background, I am advised, sir.

635 **The President:** This would require the suspension of Standing Orders, you so move, sir?

**Mr Henderson:** Yes, sir, I do.

640 **The President:** Do we have a seconder? Mrs Poole-Wilson. I put the motion that Standing Orders be suspended to allow the Third Reading to be taken at this sitting. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Mr Henderson.

**Public Sector Pensions (Amendment) Bill 2019 –  
Third Reading approved**

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I am very grateful, sir, and to Hon. Members, for allowing me the privilege of moving to the Third Reading of the Public Sector Pensions (Amendment) Bill. I am grateful for that, and it will assist in the administrative process in the background, which is ongoing as we speak.

Sir, the objective of the Public Sector Pensions (Amendment) Bill 2019 is to amend the Public Sector Pensions Act 2011. The Public Sector Pensions Act 2011 is the statutory basis for the Isle of Man's public sector pension schemes.

This short amendment Bill seeks to improve upon its provisions by: amending section 3 of the Act, which sets out new schemes for how the judiciary are made; amending sections 4 and 6 which contain the provision for making schemes so that they include pension regulations and orders in the definition of schemes; and amending section 15 to amend the Tynwald procedure for schemes that make administrative changes to schemes, i.e. those that do not amend contribution of pension accrual rates.

Stakeholder consultation took place on this amendment Bill. There were seven responses, including a collective response from members of the judiciary. This Bill neither introduces changes to current schemes nor gives new or different powers to the Public Sector Pensions Authority, but it amends the current Act in light of the experience of having to progress pension changes through it.

Sir, I beg to move the Public Sector Pensions (Amendment) Bill be read a third time.

**The President:** Miss August-Hanson.

**Miss August-Hanson:** Thank you, Mr President.

I believe that this is an eminently sensible piece of legislation, making the necessary provisions to tidy up practices and putting on a statutory basis the making of amendments and administration of such schemes in the Isle of Man, with statutory provisions that underpin pension arrangements for the Police, teachers and the judiciary, and it is enabling the PSPA to undertake its work fairly.

This being the second time that I have had the opportunity to work in scrutiny in seconding a piece of legislation with my hon. colleague on Council, Mr Henderson, I would just like to say that I was very impressed with his diligence and thorough questioning in the lead-up to bringing this piece of legislation to this place, as it is often hidden, the scrutiny that takes place in proposing and seconding legislation through Legislative Council.

Thank you, Mr President, I would like to second.

**The President:** Mr Henderson.

**Mr Henderson:** If I could make a closing comment, Eaghtyrane. (**The President:** Indeed.)

I would just like to thank you for allowing me ... Thank you to my seconder. And I would just like to say thank you to the PSPA staff as well for their help, assistance and patience in my questioning of the process of this Bill, to gain my understanding of it and test out the different sections, and I am grateful for their assistance in that, Eaghtyrane.

Thank you.

**The President:** The motion is that the Public Sector Pensions (Amendment) Bill be read a third time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

690 Thank you, Hon. Members, that brings us to the end of our Order Paper this morning. Council will now stand adjourned until its next sitting which will be Tuesday next, 10th December at 10.30 a.m. in Tynwald Court.

**Mr Crookall:** Mr President, sir, I think that is Tynwald, the 10th.

695 **The President:** That is what I said. The next sitting will be in the Tynwald Court Chamber.

**Mr Crookall:** Apologies.

**The President:** Thank you, Hon. Members.

*The Council adjourned at 11.29 a.m.*