

THE PENSIONS (SPECIAL RULES FOR END OF LIFE) BILL 2024

**MEMORANDUM FROM THE DEPARTMENT FOR WORK AND PENSIONS TO THE DELEGATED
POWERS AND REGULATORY REFORM COMMITTEE**

A. INTRODUCTION

- 1) This memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Pensions (Special Rules for End of Life) Bill 2024 (“the Bill”). This memorandum identifies the provisions of the Bill that confer powers to make delegated legislation. It explains why the power has been taken and explains the nature of, and the reason for, the procedure selected.

B. PURPOSE AND EFFECT OF THE BILL

- 2) The Bill would change the life expectancy criteria for Pension Protection Fund (PPF) terminal illness payments, and both annual and initial payments made under the Financial Assistance Scheme (FAS) Regulations 2005.
- 3) The Bill would amend the definition of terminal illness so that instead of having a life expectancy of 6 months, this will be defined by a period of 12 months. It would also make provision for annual payments in the case of ill health where an individual has between 12 months and 5 years’ life expectancy (FAS Regulations only). The Bill aims to bring pensions legislation in line with recent changes to social security legislation, namely, the Social Security (Special Rules for End of Life) Act 2022.

C. DELEGATED POWERS

Clause 2(4), 2(5), 2(7), 2(8), 2(9), 2(10)

Power conferred on: the Secretary of State and Department for Communities in Northern Ireland

Power exercised by: Regulations made by statutory instrument or statutory rule appointed by order

Parliamentary procedure: No procedure

Context and purpose

- 4) The Bill does not seek to amend the nature of the provisions which set out the criteria for terminal illness or ill health payments, it rather seeks to broaden its application and allow for individuals with a longer life expectancy of 12 months to become eligible for the relevant payments.
- 5) The Bill will only contain a power to make commencement regulations pursuant to the Bill, which may include such transitional or saving provisions as the Secretary of State considers

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appropriate, and power for the Department for Communities in Northern Ireland to appoint an order commencing the relevant provisions, which may include such transitional or saving provisions as the Department for Communities in Northern Ireland considers appropriate.

Justification for taking the power

- 6) The Department for Work and Pensions wishes for the commencement of these changes to be by commencement regulations. This would provide the flexibility to ensure that the Pensions Protection Fund are able to implement the new conditions upon commencement. The Department for Work and Pensions acknowledges that until commencement regulations come into force, affected members would not benefit from the amended provision, which will enable payments to be made at an earlier stage of a member's illness.

Justification for the procedure

- 7) As per usual practice, commencement regulations are not subject to parliamentary procedure.

22 December 2023