



No: 504/2019

Date: 2nd July 2019

CHIEF MINISTER'S PARLIAMENTARY STATEMENT ON THE PENSIONS ACT

I have the honour to move that the Bill be now read a second time.

This Bill is for an Act which seeks to ensure that - for the first time into our history - private sector workers should be entitled to choose whether they wish to make a contribution to a pension plan.

The choice and the decision is to be of the employee.

Should that employee choose to participate in a pension plan, the Act then requires the employer to contribute towards that employee's pension plan.

In such circumstances, employers in the private sector will therefore have an obligation to provide a pension to employees.

This Act sets out the minimum that will be required from employers in the private sector; any employer wishing to do more can, at any point, increase their contributions.

Indeed, Mr Speaker, I want to just reflect on the fact that a very large number of employers in our economy already provide such facilities for their employees and have not had to wait for a compulsion of law in order to provide such facilities.

What Her Majesty's Government of Gibraltar is doing with this Bill for an Act is ensuring that every member of the community has the option of being protected financially in their later years.

This Act will set out a starting position.

By ensuring that everyone has a pension plan, an individual can then contribute more to that pension plan.

Simultaneously, the Government wishes to assist businesses in the phasing in of pension plans.

The implementation of this Act is phased, so that smaller employers have more time to deal with the requirements and have a longer period to make the requisite adjustments.

Large employers will be required to comply with the provisions of the Act by July 2021, medium employers will be required to contribute by July 2022, small employers by July 2025 and micro employers by 2027.



The definitions of whether the employer is small/medium or large will follow the definition in the Companies Act 2014, with the requisite changes so that the definitions also apply to employers who are not companies.

More particularly, Mr Speaker, and in order to assist Members, I will set out that Part 1 of the Act includes provision as to the scope of the Act, which will apply only to employers in the private sector.

Part 2 imposes an obligation on employers to either continue with any existing pension plans available to their employees, or if none are in place, to participate in a pension plan established by regulated pension providers.

Low income employees will be able to contribute to a pension plan established by the Government.

It is envisaged that employees who earn less than £18,500 will be able to contribute to the [Provident Trust (Number 3) Pension Scheme].

This will be further set out by way of regulations.

Employees can also elect not to participate in a pension scheme, but there is a duty on the employer to notify the Pensions Commissioner if the employee would like to participate in a pension scheme or otherwise.

If the employee chooses not to participate, there is a relevant form for that employee to fill in.

Under section 5, employers will be under a duty to register such participation with the Commissioner, who shall be the Commissioner of Income Tax; care will be taken so that there is no excessive administrative burden on employers.

Whilst there is no exemption for start-ups, employees will have to have been working for the employer for a year before falling within the provisions of the Act.

Section 6 then requires the employer to provide the administrator of a plan the relevant information pertaining to that employee.

Section 7 imposes a duty of administrators of pension funds to explain the terms to the employees upon them joining a pension fund.

Sections 8 and 9 require information to be produced to members and access to documents by relevant third parties, with consent.

Section 10 specifies which employees qualify for benefit under the obligation on employers to participate in a pension plan. Employees must be 15 years of age or over, earn at least £10,000 per annum, and must have been employed by that employer for a year.

Where a person is employed by more than one employer, they can be enrolled as a member of each pension plan for which he meets the relevant criteria.



Part 3 establishes the minimum contribution rate that employers and employees will make to the pension plans subject to the Act, being 2% of the employees' annual earnings (excluding bonus) each.

The employer and the employee will each have to contribute 2% to the pension scheme (subject to the minimum earnings etc stated above).

This percentage can be amended by the Minister by order.

The employers and employees may choose to make higher contributions at any time and may each make different contributions (as long as a 2% minimum is met).

This Part also allows for the Commissioner, the administrator or a member to recover any amounts withheld from an employee's salary as a debt due.

Part 4 details the types of advice and orders that may be given by the Pensions Commissioner.

Part 5 of the Act establishes the Pensions Commissioner. The Commissioner shall keep a register which will list all employers and their employees' status under this Act.

Section 16 lists the functions of the Commissioner which include to promote education on pension plans and their benefits, to verify payments made under pension plans, and to investigate complaints relating to a pension plan.

The Commissioner is provided with powers of entry and search to facilitate the enforcement and monitoring of compliance with the Act, as per the powers granted under the Income Tax Act 2010.

The Act will also create offences for contravention of any provision of the Act or orders or regulations made under the Act; the Act is therefore ensuring compliance by granting powers to be able to fine if anyone is found in breach of the Act.

Section 21 sets the fine payable for such offences at level 4 on the standard scale, which doubles in the case of a second or subsequent offence.

The main purpose of this Act will be to remedy the discrepancy that exists between private sector workers, and public sector workers, to ensure that all workers in Gibraltar are adequately protected in their later years.

We have already, Mr Speaker, started to try to redress that even in respect of those already retired and who have no provision made for them by supporting the introduction by Community Care of the minimum income safety net of the statutory minimum wage for couples and two thirds thereof for individuals.

For future generations, we are proposing the creation of these rights.



Mr Speaker, I know that this Bill enjoys the support of Unite the Union with whom we have worked on these commitments. I also know that they might have wished to have seen us go even further in some aspects these measures.

I must also acknowledge that the consultation process we went through included the Chamber and the Federation.

Although they were not unsupportive of these measures, it is fair to reflect that they feel we have gone too far in some respects.

I want to nonetheless thank both the Chamber and the Federation on the one part, and the Union on the other part, for their constructive and positive engagement in the process of bringing this Bill forward.

This is a proposal we have brought from a commitment in our manifesto.

It has been greatly delayed by Brexit and by the need to ensure that in making these changes to our laws we are not going to make Gibraltar any less competitive in any way with any of our rival jurisdictions.

We are confident, Mr Speaker, that this Bill strikes the right balance and that the time is right to make this legislation.

Mr Speaker, in this Bill we are legislating today to provide rights for workers tomorrow.

It is right that we should.

The benefits to the community as a whole - and to working people in particular - will not be felt for years.

Perhaps for generations.

But when those benefits are felt, I will be proud to have been the person introducing this seminal piece of legislation for working people in the private sector.

I urge all members to join in my so doing.

And I therefore commend the Bill to the House.

ENDS