



HOUSE OF LORDS

# Library Note

## **Superannuation Bill (HL Bill 22 of session 2010–11)**

This short Library Note provides information regarding the Superannuation Bill which is due for Second Reading in the House of Lords on 26 October 2010. The Note is intended to be read in conjunction with the House of Commons Library Research Papers *Superannuation Bill* (1 September 2010, [RP 10/56](#)) and *Superannuation Bill: Committee Stage Report* (8 October 2010, [RP 10/60](#)), which provide background information and summarise proceedings in the Commons at Second Reading and Committee Stage. This Note summarises proceedings at the Bill's final stages in the Commons.

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## 1. Introduction

The Superannuation Bill (HL Bill 22 of session 2010–11) makes provision for the reform of the Civil Service Compensation Scheme:

The Bill places upper limits on payments under the Civil Service Compensation Scheme (CSCS), a scheme made under the Superannuation Act 1972. The CSCS sets out the tariffs which may apply when the employment of civil servants is terminated prematurely. The terms of the CSCS were amended in February 2010, but those amendments were quashed in judicial review proceedings brought by the Public and Commercial Services Union, so that the former compensation terms have now revived. For many civil servants, the former terms produced more generous outcomes than did the February 2010 terms.

(Superannuation Bill Explanatory Notes, [HL Bill 22-EN](#))

The Bill was read for the first time in the House of Lords on 14 October 2010; it is due for Second Reading on 26 October 2010. The House of Commons Library has produced two Research Papers covering the background to the Bill and its passage through the Commons up to Committee Stage: *Superannuation Bill* (1 September 2010, [RP 10/56](#)) and *Superannuation Bill: Committee Stage Report* (8 October 2010, [RP 10/60](#)).

Following an agreement between the Government and the trade unions on 7 October 2010, the Bill received a Government amendment at Report Stage and was passed at Third Reading. One Opposition amendment was defeated on division. This Note therefore provides details of the agreement and the debate on the Bill during Report and Third Reading in the House of Commons. These are described in the sections below.

## 2. Agreement of New Terms

Following the conclusion of negotiations with public sector unions about the CSCS, the Government announced in a press release that negotiations had concluded with the agreement of the FDA, Prison Officers' Association (POA), GMB and Unite. The new CSCS terms were:

- A standard tariff of one month's pay per year of service;
- A limit of 12 months pay for staff made compulsorily redundant;
- A limit of 21 months pay for those staff who depart under voluntary terms;
- Where staff are earning less than £23,000 a year (on a full time equivalent basis) and are made redundant their compensation can be based on a salary of £23,000. This figure will be set at 90 per cent of the ONS figure for the Private Sector Median Full time Earnings in the Annual Survey of Hourly Earnings (ASHE) or £23,000 (whichever is higher). The current Private Sector Median is £24,970.
- Staff who have reached their minimum pension age may be able to have access to an unreduced pension if they depart on voluntary terms.

- Staff earning more than six times the Private Sector Median Earnings (currently £149,820) will have the calculation of their compensation based on that figure rather than their actual salary.
- A reform of the process for making staff redundant which will lead to a significant shortening of the time taken. In addition, all staff departing will now receive three months notice. Currently staff dismissed are entitled to at least six months notice.

The press release also announced that the Government would propose an amendment to the Superannuation Bill. The purpose of the amendment was to introduce a new clause 1:

[To] remove the ability of a union to veto any changes to the compensation scheme. For the future, the Government will still need to consult on any changes, but they will not require the consent of the unions. For the purpose of the proposed new scheme, the negotiations leading to the agreement with the unions will constitute the required consultation. The amendment will also enhance the protection of accrued pension rights by vesting the power to agree to any decrease to such rights in the hands of each individual member of staff.

(Cabinet Office press release, [‘Government concludes negotiations on Civil Service redundancy scheme’](#), 7 October 2010)

### 3. Commons Report Stage

An amendment to introduce the new clause 1 to the Superannuation Bill was moved by the Government at Report Stage in the House of Commons on 13 October 2010. Opening the debate, Francis Maude, Minister for the Cabinet Office, described the existing scheme as “unaffordable and completely out of kilter with practice in the rest of the public sector” (HC *Hansard*, [13 October 2010](#), col 340). Before moving onto the necessity of the new clause Mr Maude spoke of the agreement reached with five of the six public sector unions:

We reached agreement on a standard tariff in which each year of service would provide one month’s salary in the event of redundancy. That compares with one week’s salary for every year of service under the statutory redundancy scheme. The tariff would be capped at 12 months for compulsory redundancy and at 21 months for voluntary redundancy. All civil servants being made redundant would be entitled to a three-month notice period. That is in contrast to a cap, in some circumstances, of well over six years’ pay—six and two-thirds years—and paying up to three months’ pay for every year of service, as is the case currently. It contrasts with the current situation of having a six-month notice period for all compulsory redundancies, but no equivalent notice period for voluntary redundancies. The new scheme will be simpler, fairer and more affordable.

(*ibid*, col 344)

Speaking on its specific provisions, he added that “under the terms of the scheme, any civil servant on a full-time equivalent salary of less than £23,000 who was made redundant would be deemed to earn £23,000 when their redundancy payment was calculated... For the very lowest paid in the civil service, that is significant additional protection and, I have to say, better protection for the lowest paid than the February

scheme”. Mr Maude confirmed that this aspect of the deal “would be a permanent feature of the scheme, not a transitional feature of it. It would be in place for all time or for all time until some subsequent Government chose to revisit it” (*ibid*). With regard to those staff earning more than six times the private sector median average earnings, Mr Maude stated that capping their salary for the purpose of calculating their redundancy payment “would be an end to the mega-payouts, which have been highlighted in a national newspaper recently and which cause a certain amount of offence to taxpayers” (*ibid*, col 344).

The new clause, Mr Maude stated, would allow the Government to impose the agreed scheme. He made clear to the House however that the new clause “does not create any unprecedented power for me that has not been available to my predecessors”. Rather:

It simply recreates precisely the power that the right hon. Lady had when she imposed the February scheme. It does not go one whit beyond that. It is rigorously framed so that it goes no further at all than the power in the original Act, on the basis of which the right hon. Lady—in good faith, and with our full support—acted before the election.

(*ibid*, col 345)

Tessa Jowell, for the Opposition, stated her party would oppose the amendment. She said that the Opposition agreed reform of the CSCS was needed but any legislation should be framed with regard to the decision of the judicial review. She added that “the Bill is not simply a blunt instrument for negotiating purposes” and summarised the Opposition’s view:

The first problem, as we argued from the outset on Second Reading, is with the unacceptable caps set out in clause 1... The second is the unbridled powers that the Government are seeking to impose on any new scheme that fails to secure a negotiated agreement. We will take every step we can to insist that a requirement for consultation and due process appears in the Bill.

(*ibid*, col 346)

Ms Jowell proposed her own amendment to the Bill (amendment 4) which she said would require the Government to report to Parliament on the progress of negotiations where they intended to use the power. The report would state the effect of the imposition of the settlement in the absence of the agreement of all six unions. Ms Jowell said:

We cannot support the Government new clause as drafted because it allows the Government to impose changes to the scheme at any point, without the contingent obligation to consult the work force or their representative trade unions.

(*ibid*, col 348)

Ms Jowell also raised the issue of the Bill being certified a ‘Money Bill’. She said the Opposition would support the Government should it decide to table amendments in the House of Lords that addressed the judicial review and put consultation in the Bill but:

That is dependent on Mr Speaker taking his usual principled and pragmatic view and not judging the Bill to be a money Bill, which would eliminate the possibility of

any such constructive amendment and scrutiny in another place.

(*ibid*, col 348)

John McDonnell (Labour) raised the issue of the role of the Public and Commercial Services Union (PCS). He said that the PCS were willing to continue negotiations with the Government but criticised the Government's handling of the talks: "We cannot expect a negotiated settlement to take place when tactics are used that undermine the confidence not only of the PCS but now of the POA. That lack of confidence is now infesting other unions as well" (*ibid*, col 354). In response Mr Maude assured the House meetings with the PCS would continue but warned "the first port of call for the PCS is to make genuine proposals to, and to engage with, the other unions involved. As I have said, those unions have been involved much more constructively and in a more open spirit than the PCS" (*ibid*, col 357).

With regard to the Bill's certification as a 'Money Bill', Mr Maude confirmed that without the new clause the Speaker could certify it as such. However, he noted "that if the Bill were to include the new clause and amendment that I have tabled, the question of its being a money Bill would not even arise" (*ibid*, col 349). He went on to respond to the Opposition's criticisms and argued their position was "inconsistent":

She [Tessa Jowell] has said that amendment 4 would remove the caps, which are at the heart of the Bill. That is possible, because new clause 1 would create a power for the Government to impose a new scheme in any event. There is a certain slender logic in that, but I point out that there is a long way to go in the legislative process before that power comes into existence. That slender logic completely self-destructed when the right hon. Lady said that she would oppose new clause 1. If the House did as she urged, it would not only remove the caps in the original Bill, but deny the Government any power to impose a new scheme in any event. The Government would therefore have no ability to reform the existing scheme, which is what she and everyone who has spoken accepts is needed. Frankly, I am at a loss to understand how she can reconcile her opposition to my new clause and her support for her amendments.

(*ibid*, col 358)

He added, however, he was committed that "if further amendments are needed to make it clear in the Bill that proper consultation must take place before a scheme is imposed, they will be introduced in the other place. However, it must be recognised that as a "bridling" of this power—to adopt the right hon. Lady's word—the legislation already contains an obligation to consult, and it has done so for nearly 40 years" (*ibid*, col 358).

The Government's amendment was agreed to by 299 votes to 240. The Opposition's amendment was defeated by 316 votes to 238.

#### **4. Commons Third Reading**

Opening the Third Reading debate, Francis Maude made clear that the Government wished to avoid redundancies in the public sector. He explained that "the Government will strain every nerve to achieve a negotiated new scheme that will make the caps imposed by the Bill unnecessary. That would also mean that the power reinstated by the Government's new clause and amendment that have just been agreed... would not need to be exercised" (*ibid*, col 367). Mr Maude concluded by stating "the Bill remains as

essential today as it was when I announced our intention to introduce it back in July” (*ibid*, col 368).

For the Opposition, Tessa Jowell described the Bill as “improved as a direct result of the parliamentary process to date” and welcomed the Government’s commitment to introduce further amendments in the House of Lords to improve “what we believe a profoundly flawed Bill”. She also urged the Minister “to resist the pressure he is doubtless getting from the Treasury to reach the quickest and cheapest settlement, as that will not extend to those deserving civil servants the treatment that not just they but the country expect” (*ibid*, col 368).

John McDonnell (Labour) concluded the debate by advocating further negotiation between the unions and the Government, and suggested that the Treasury’s role appeared to be inhibiting the negotiations. He said “If that is the problem, I suggest that the Treasury gets directly involved in these negotiations as well, so that it can see that its attempt to gain a short-term saving will have a long-term cost to the Government. That might help to get some productive negotiations going” (*ibid*, col 369).

The Bill was passed at Third Reading by 309 votes to 242.

