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Pensions Bill: Committee Stage Report

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This is a report on the Public Bill Committee Stage of the *Pensions Bill*. It is designed to complement Research Paper *Pensions Bill* (RP 11/52), which covers in more detail the background to the Bill and the debates in the House of Lords.

The provisions most debated at Committee stage were:

- Clause 1, which accelerates the increase in the State Pension age (SPA) to 66. At Second Reading, the Government had said it stood by the revised timetable in the Bill but would work to "get the transition right"; and

- Changes made by Part 2 of the Bill to the legislative framework requiring employers to automatically enrol employees into a qualifying pension scheme.

At Committee Stage, the Government made amendments, mainly of a minor and technical nature, to the provisions in Part 2. It also amended the clauses dealing with the indexation and revaluation of occupational pensions. No opposition amendments were agreed to.

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Summary

The main changes introduced by the *Pensions Bill 2011* would:

- Accelerate the existing timetable for increasing the State Pension age (SPA) to 66;

- Amend the legislative framework requiring employers to automatically enrol employees into a qualifying pension scheme and to make contributions to that scheme;

- Amend legislation providing for the indexation and revaluation of occupational pensions and payments from the Pension Protection Fund; and

- Allow contributions to be taken from members of Judicial Pension Schemes to the cost of providing their personal pension benefits.

In both Houses of Parliament, the measures most debated were those relating to the SPA and automatic enrolment. Both modify reforms legislated for by the Labour Government in two pieces of primary legislation (the *Pensions Act 2007* and *Pensions Act 2008*) following the recommendations of the Pensions Commission, chaired by Lord Turner of Ecchinswell.[1]

Clause 1 of the Bill would accelerate the timetable in existing legislation (*Pensions Act 1995* as amended by the *Pensions Act 2007)* for increasing the SPA to 66. Concern has been expressed at the impact of the revised timetable on those women who see their SPA increase by more than a year as a result. In the Second Reading debate in the House of Commons, Work and Pensions Secretary, Iain Duncan Smith, said the Government was committed to the SPA being equalised in 2018 and rising to 66 in 2020 but would work to "get the transition right".[2] Four opposition amendments relating to clause 1 were negatived on division at Committee Stage.

The *Pensions Act 2008* provided for the introduction of duties on employers to automatically enrol workers into and contribute to a qualifying workplace pension scheme, unless the worker opts out. **Part 2** of the Bill makes changes to this legislative framework: increasing the earnings threshold for auto-enrolment and introducing an optional waiting period of up to three months before a worker must be automatically enrolled. Opposition amendments to reduce the proposed new earnings threshold and the optional waiting period were negatived on division. The Government made twelve amendments to this Part of the Bill, most of them minor and technical in nature.

Other issues debated included the switch to the CPI for the indexation and revaluation of occupational pensions. Twelve Government amendments were made to these clauses.

[1] For further detail on these debates, see Library Research Paper 11/52 *Pensions Bill*
[2] HC Deb, 20 June 2011, c50

1 Introduction

When the *Pensions Bill* was in the House of Lords, the measures most debated were those relating to the State Pension age and automatic enrolment. Both modify reforms legislated for by the Labour Government, following the recommendations of the Pensions Commission, chaired by Lord Turner of Ecchinswell.

The *Pensions Act 2007* provided for the State Pension age (SPA) to increase: from 65 to 66, over two years from April 2024; to 67 over two years from April 2034; and to 68 over two years from April 2044. Legislation was already in place to increase the SPA for women from 60 to 65 between April 2010 and 2020. Following the 2010 election, the Conservative-Liberal Democrat Coalition Government reviewed the timetable for increasing the SPA and decided to accelerate the increase to 66. First, the equalisation timetable would be adjusted from April 2016 so that women's SPA reached 65 in November 2018. Then, the equalised SPA would rise from 65 to 66 between December 2018 and April 2020. The revised timetable is in Part 1 of the Bill. The qualifying age for Pension Credit also rises, because it is linked to the State Pension age for women.

The *Pensions Act 2008* provided for the introduction of duties on employers to automatically enrol workers into and contribute to a qualifying workplace pension scheme, unless the worker opts out. The new duties are due to be staged in over a four year period from October 2012. The current Government set up a review of these arrangements, which reported in October 2010. This recommended changes to ease the burden of the new duties on employers. Part 2 of the Bill would: increase the earnings threshold for auto-enrolment; introduce an optional waiting period of up to three months before a worker must be automatically enrolled; and provide for a simpler system for employers to certify that an existing scheme meets the requirements for auto-enrolment.

2 Second Reading debate

The Bill had its First Reading in the House of Commons on 27 April 2011.[3] Opening the Second Reading debate on 20 June 2011, Secretary of State for Work and Pensions, Iain Duncan Smith, set out the Government's case for accelerating the increase in the SPA:

> The impact of the changes on women has been debated enormously, focusing particularly on certain cohorts. All but 12% of those affected will see their state pension age increase by 18 months or less. I recognise that some 1% of those impacted will have a state pension age increase of two years, but it none the less remains the case that those reaching state pension age in 2020 will spend the same amount of time in retirement as expected when the 2007 Act timetable was being drawn up. That is an important factor. There will be no change to the amount of time that they will spend in retirement—some 24 years, on average. In fact, the women who are affected by the maximum increase will still, on average, receive their state pension for two and a half years longer than a man reaching state pension age in the same year.[4]

He said the Government intended to press ahead with the timetable in the Bill but would consider transitional arrangements:

> I recognise the need to implement the change fairly and manage the transition smoothly. I hear the specific concern about a relatively small number of women, and I have said that I will consider it. I say to my colleagues that I am willing to work to get the transition right, and we will. Some have called for us to delay the date of equalisation of the pension age, but I wish to be clear again that this matter is the

[3] Parliament website –Bill documents – Pensions Bill [HL] 2010-12

[4] HC Deb, 20 June 2011, c48; See also, c126 [Steve Webb]

> challenge of our generation, and we must face it. That is why we are committed to the state pension age being equalised in 2018 and rising to 66 in 2020. That policy is enshrined in the Bill.[5]

In response to concerns that the revised timetable was in breach of what was said in the Coalition Agreement,[6] he said:

> There is a slight problem with that element of the coalition agreement. It was done in that way at the time, and that is fair enough, but we have since looked at it carefully and taken legal advice. The agreement talks about men's pension age being accelerated to 66, which would breach our legal commitment to equalisation and then not to separating the ages again. There are reasons for needing to revisit that, and we have done so and made changes.[7]

Shadow Work and Pensions Secretary, Liam Byrne, said the Opposition would vote against the Bill due to concerns about the impact of the revised timetable for increasing the SPA. He referred to the ongoing consultation on the appropriate mechanism for introducing future increases:

> That is an issue that should have been brought to the House for debate before we were asked to debate egregious measures that will hit half a million women. We should re-examine the timetable for the raising of the retirement age to 67, but that must be done on the basis of equal treatment of the sexes, and the principle that people should be given time to prepare.[8]

He described the increase in the earnings threshold for auto-enrolment as "regrettable":

> The first reason is that the salary at which someone is automatically enrolled will be raised from £5,000 to nearly £7,500. The impact of that will hit 600,000 people—they will be much less likely to opt in to long-term savings. If the Government raise that threshold in line with the coalition's ambition to increase the income tax threshold to £10,000, nearly 1 million people will be excluded, three quarters of whom will be women. Their loss, potentially, is £40 million of employer pension contributions.[9]

Pensions Minister, Steve Webb, responded that leaving the policy unchanged would result in some people saving very small amounts, thus undermining the credibility of the reforms.[10] Under the Government's proposals, people would be auto-enrolled at £7,475 (2011/12 earnings terms) but contributions would be payable on a band of earnings starting from a lower figure (see section 3.2 below).

The House voted to give the Bill a Second Reading by 302 votes to 232.[11]

3 Public Bill Committee Stage

The Public Bill Committee was chaired by Graham Brady and Katy Clark. Its members included Pensions Minister, Steve Webb, and Shadow Pensions Minister, Rachel Reeves:

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[5] Ibid, c50

[6] That the Government would "hold a review to set the date at which the state pension age starts to rise to 66, although it will not be sooner than 2016 for men and 2020 for women." *The Coalition: Our programme for government*, May 2010, page 26

[7] HC Deb, 20 June 2011, c48

[8] Ibid, c61; DWP, *A State Pension for the 21st Century,* CM 8053, April 2011

[9] HC Deb, 20 June 2011, c54-5

[10] Ibid, c123-4

[11] Ibid, c128

Harriet Baldwin (*West Worcestershire*) (Conservative)
Andrew Bingham (*High Peak*) (Conservative)
Nick Boles (*Grantham and Stamford*) (Conservative)
Chris Evans (*Islwyn*) (Labour/Co-op)
Sheila Gilmore (*Edinburgh East*) (Labour)
Lilian Greenwood (*Nottingham South*) (Labour)
Cathy Jamieson (*Kilmarnock and Loudoun*) (Labour Co-op)
Marcus Jones (*Nuneaton*) (Conservative)
Stephen Lloyd (*Eastbourne*) (Liberal Democrat)
Stephen Metcalfe (*South Basildon and East Thurrock*) (Conservative)
Teresa Pearce (*Erith and Thamesmead*) (Labour)
Rachel Reeves (*Leeds West*) (Labour)
Amber Rudd (*Hastings and Rye*) (Conservative)
Andrew Selous (*South West Bedfordshire)* (Conservative)
Alok Sharma (*Reading West*) (Conservative)
Chloe Smith (*Norwich North*) (Conservative)
Steve Webb (*Minister of State, Department for Work and Pensions*).
Malcolm Wicks (*Croydon North*) (Labour)
Hywel Williams (*Arfon*) (Plaid Cymru)

The Committee debated the Bill in eight sittings on four days between 5 and 14 July. It reported two pieces of written evidence to the House.[12] Proceedings of the Public Bill Committee can be found on the Parliament website.

Again, the revised timetable for increasing the SPA attracted most debate, with most of the first four sittings devoted to clause 1. Four opposition amendments relating to clause 1 were negatived on division. The fifth, sixth and seventh sittings were spent debating the provisions on automatic enrolment and related issues of policy, such as the National Employment Savings Trust. Three Opposition amendments relating to the earnings threshold for auto-enrolment and the optional waiting period were negatived on division. The debates are discussed in more detail below.

Twenty-four Government amendments were made to the Bill. Twelve of these were detailed changes to the auto-enrolment provisions in Part 2 of the Bill. The remainder related to the provisions on occupational pension schemes in Part 3.[13]

The Bill's Report Stage and Third Reading are scheduled for 18 October 2011. The latest version of the Bill, as amended in Public Bill Committee (Bill 222 of 2010-12), is on the Parliament website.

3.1 State Pension age

Under existing legislation, the SPA for women is set to increase from 60 to 65 between April 2010 and 2020, to bring it into line with that for men. The equalised SPA is then scheduled to increase to 66, over two years from April 2024, to 67 over two years from April 2034 and to 68 over two years from April 2044.[14]

[12] From Age UK (P01) and Consumer Focus (P02);PBC Deb, 5 July 2011 (afternoon), c45 and PBC Deb, 7 July 2011 (morning), c95;
[13] For an explanation of the first 15 amendments, see letter to Katy Clark MP from Steve Webb, 30 June 2011
[14] P*ensions Act 1995,* section 126 and schedule 4 as amended by *Pensions Act 2007,* section 13

Following the 2010 election, the Conservative-Liberal Democrat Coalition Government reviewed the timetable for increasing the SPA and decided to bring forward the increase to 66.[15] Accordingly, **clause 1** of the Bill would amend the existing timetable:

> Under the *PA 2007*, the increase to 66 was due to take effect between 2024 and 2026. This Bill will bring forward the increase so that state pension age for both men and women will begin rising from 65 in December 2018 to reach 66 by April 2020. As a result of bringing forward the increase to 66, the timetable contained in the *PA 1995* for equalising women's state pension age with men's at 65 by April 2020 will be accelerated, so that women's state pension age reaches 65 by November 2018.[16]

Shadow Pensions Minister, Rachel Reeves, moved amendments which sought to ensure that there would be "no rise to age 66 before 2016 for men and 2020 for women, as in the coalition agreement" while allowing for "a faster transition to 66 between 2020 and 2022."[17] She explained that under her proposals nobody would have to wait "for more than a year longer before they receive their state pension."[18]

Pensions Minister, Steve Webb, responded that the Government's proposals for State Pension reform should be borne in mind, as part of the context for the debate:

> My firm conviction is that the state pension system presided over by the previous Government is not adequate for those women; we have time to change it, although we need to move quickly, to a system that is far fairer precisely for those women who spent time out of the labour market bringing up children. We have heard a lot about their needs, and we have a Green Paper that proposes solutions very much benefiting exactly that group of women.[19]

He also pointed to the wider importance of the fiscal climate. The Opposition's proposed amendments, he said, would cost £10 billion in public expenditure, and another £2.5 billion in income tax and National Insurance (NI) foregone, compared to the Government's plans.[20] Furthermore, the basic reason for bringing the increase to 66 forward was the dramatic improvement in longevity even since the *Pensions Act 2007* was passed."[21]

He said he stood by the principle of "grasping those difficult issues today rather than putting them off till tomorrow for someone else to tackle" [22] . The Government was "mindful of the very specific group" of women most affected by the change and was "willing to get the transition right." However, the Opposition's proposed approach had already been debated in the House of Lords and rejected.[23] Rachel Reeves' amendments were defeated on division by 11 votes to 7.[24]

Proposal that no individual should see their SPA delayed by more than a year

Labour MP, Teresa Pearce, moved an amendment with the aim of ensuring that "no woman born between 6 October 1953 and 5 April 1955 would have longer than one year to reach SPA from the present position."[25] The Minister welcomed the fact that a new approach had

[15] DWP, *A sustainable State Pension: when the State Pension age will increase to 66*, CM 7956, November 2010
[16] Bill 183 - EN, para 8 and paragraphs 20 to 26. Schedule 1 makes consequential amendments
[17] PBC Deb, 5 July 2010 (morning), c4-5. Amendments 16 and 17
[18] Ibid, c10
[19] PBC Deb, 5 July 2011 (afternoon), c52
[20] Ibid, c54
[21] Ibid, c62
[22] Ibid ,c62
[23] Ibid, c57
[24] Ibid, c67
[25] Ibid, c69

been proposed but said it was important for the Government to take its time "to get these things right."[26] The amendment was withdrawn.[27]

Proposal for linking the SPA to number of years after entry to employment

Former Labour Pensions Minister, Malcolm Wicks, moved an amendment to ask the Secretary of State to "review the option for linking the SPA to the number of years in employment, to ensure that pensionable age is reached no later than 49 years after entry into employment."[28] The issue at stake was the impact of a rising SPA on lower socio-economic groups:

> On the one hand, the privileged people, of whom there are growing numbers, start work at 21 or 22 and get their pensions at 65, 66 or whatever the age will be; but those from the least privileged backgrounds, who are working harder in terms of physical labour than most of us do, get their pension after having worked five or six years more than those from the most privileged backgrounds. Essentially, that is my thesis. Such people have a higher chance of death before reaching state pension age, and they receive their state pension for four fewer years than the most privileged, yet they have worked hard all their life.[29]

He suggested that this group could be identified from a combination of income tax, employment and National Insurance (NI) records and that some sort of trigger could be devised that would allow them to draw their pension at, say, 65.[30]

Responding, Steve Webb explained the problem with the NI records before 1975:

> The pre-'75 records are held principally in paper form. A one-figure summary is held, which essentially tells us the number of weeks of contributions people made before 1975. That might say 260 weeks, which could be five years at 52, or 10 years at 26—we do not know. I cannot envisage that he is really suggesting that we go back to the paper records and try to re-enter them. Therefore, there is a profound issue, which I would not say is insurmountable, about the paucity of the pre-'75 data. There is a more profound issue about the pre-'78 situation, relating to women. Home responsibilities protection to protect the rights of women—and men, but principally women at home with children—was brought in from '78.[31]

He did not think the income tax or employment records would provide a better solution.

Malcolm Wicks suggested that an alternative solution might be to allow people to make an application based on the information available to them.[32] However, the Minister was concerned that the proposal was impractical and would raise issues going forward:

> The danger is that we hardwire into the state pension system something that reflects manufacturing industry in the '70s and '80s and, before we know it, we have hardwired in something that does not mirror the current situation.[33]

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[26] Ibid, c83
[27] Ibid, c88
[28] Ibid, c88
[29] Ibid, c92
[30] Ibid, c92
[31] PBC Deb, 7 July 2011 (afternoon), c124-5
[32] Ibid, c124-133
[33] Ibid, c129

Malcolm Wicks suggested that the issues raised by the debate could be considered as part of any reviews set up to consider future increases in the State Pension age.[34] The amendment was withdrawn.[35]

Communication on SPA increases

Teresa Pearce moved an amendment that would require the Secretary of State to report to Parliament the steps that had been taken to communicate changes in the SPA to all affected.[36] The Minister accepted that the Government had a duty to ensure people knew about the changes. However, it had to wait for the Bill to get Royal Assent.[37] Teresa Pearce welcomed the fact that the Government was taking the issue seriously but wished to push the amendment to a vote. It was defeated on division by 10 votes to 7.[38]

Pension Credit qualifying age

Rachel Reeves moved an amendment that would:

> [...] maintain the qualifying age for pension credit at the previous timetable for women's state pension age, thus providing a buffer of help with the transition for those least able to cope financially with the move[39]

She estimated the cost of this as "probably in the region of £1.5 to £1.75 billion" and asked whether the Minister considered this "an acceptable amount to pay to smooth the transition and to support those least able to adjust to the plans, particularly the poorest."[40]

The Minister said the amendment would cost some £1.9 billion by 2025. It would also introduce more complexity to the system:

> [...] they propose that the qualifying age for pension credit would follow the track of the women's state pension age from 2016 onwards set out in the 2007 Act, diverging from women's state pension age, which itself will be divergent from men's state pension age. We would be running three different eligibility ages in tandem. That would create anomalies.[41]

Rachel Reeves' amendment was negatived on division by 10 votes to 7.[42]

Winding up the debate on clause 1 and related issues, the Minister reiterated the Government's commitment to looking at transitional issues while sticking to "the principle of fast equalisation and the move to 66."[43] Rachel Reeves expressed concern that she was still "none the wiser about how the Government plan to go about smoothing the transition, and easing the impact of the Bill on those most affected by it."[44]The Committee agreed by 10 votes to 7 that clause 1 should stand part of the Bill.[45]

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[34] PBC Deb, 7 July 2011 (afternoon),c133; DWP, *A state pension for the 21st century*, April 2011, chapter 4
[35] Ibid, c134
[36] Ibid, c134
[37] Ibid, c141
[38] Ibid, c141
[39] Ibid, c142-5
[40] Ibid, c146
[41] Ibid, c156. See House of Commons Library deposited paper, DEP2011-1182 for a breakdown of the costs
[42] Ibid, c166
[43] Ibid, c159
[44] Ibid, c161
[45] Ibid, c161

3.2 Automatic enrolment

The *Pensions Act 2008* provided for the introduction of duties on employers to automatically enrol workers into and contribute to a qualifying workplace pension scheme, unless the worker opts out. The new duties will be introduced over a four year period from October 2012.[46] The current Government set up a review of these arrangements, which reported in October 2010. The *Making automatic enrolment work* review recommended changes to ease the burden of the new duties on employers.[47] Part 2 of the Bill would: increase the earnings threshold for auto-enrolment; introduce an optional waiting period of up to three months before a worker must be automatically enrolled; and introduce alternative self-certification arrangements for employers wanting to use an existing pension scheme rather than enrolling employees into the National Employment Savings Trust.[48]

Earnings threshold

An issue debated by the Committee was whether the thresholds of the qualifying earnings band for auto-enrolment should be aligned with those for tax or National Insurance (NI).

The *Pensions Act 2008* defines "qualifying earnings" as between £5,035 and £33,540 (2006/07 earnings terms). The definition is important because workers with qualifying earnings must be auto-enrolled and because it is on this band of earnings that minimum contributions are payable. [49] The original idea – as proposed by the Pensions Commission – was that the qualifying earnings band should start at the Primary Threshold for NI purposes and finish at the NI Upper Earnings Limit.[50] The Labour Government said it would adopt broadly this approach and legislated accordingly.[51] However, because different uprating arrangements have applied to the "qualifying earnings" and NI thresholds, the two have moved out of alignment over time.[52]

The *Making automatic enrolment work* review set up by the current Government said that, if possible, the threshold for automatic enrolment should be re-aligned with existing thresholds for tax or NI. [53] In any case, it said the point at which contributions are deducted should be aligned with the NI Primary Threshold. This would ensure that:

> [...]even with a higher entry threshold, individuals who are automatically enrolled have their pension contributions contributed on a significant portion of their income.[54]

The Impact Assessment to the Bill, published in January 2011, explained that the Government decided to set an "earnings trigger" for auto-enrolment at £7,475, in 2011/12

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[46] *Employer's Duties (Implementation) Regulations 2010* (SI 2010/4)

[47] Paul Johnson et al, *Making automatic enrolment work. A review for the Department for Work and Pensions*, October 2010

[48] This is discussed in more detail in Library Standard Note SN 04847 *Pensions: automatic enrolment and employer contributions*

[49] *Pensions Act 2008,* sections 1 (1), 3 (1) and 13. The figures for the qualifying earnings band are set out in section 13 (1) of the 2008 Act. Increased in line with average weekly earnings, the equivalent figures for 2011/12 are £5,805 and £38,670. House of Commons Library calculation.

[50] Pensions Commission, A New Pension Settlement for the Twenty-First Century; The Second Report of the Pensions Commission, November 2005, p355 and p276

[51] DWP, *Security in retirement: towards a new pensions system,* Cm 6841, May 2006, para 1.103; *Pensions Act 2008*, section 13

[52] Paul Johnson et al, *Making automatic enrolment work. A review for the Department for Work and Pensions*, October 2010, para 5.2.1

[53] Ibid, p4

[54] Johnson et al, *Making automatic enrolment work review* para 5.2.3

earnings terms, in line with the threshold for income tax. Contributions would be deducted from the [then] NI Primary Threshold of £5,824 (2011/12 earnings terms).[55]

Clause 5 would amend sections 3 and 5 of the *Pensions Act 2008* such that the requirement to automatically enrol (or re-enrol) applies to a worker with earnings of more than £7,475 pa in 2011/12 earnings terms (the "earnings trigger").[56] This earnings trigger is distinct from the band of "qualifying earnings" in section 13 of the 2008 Act (on which minimum contributions are payable). The Bill does not amend the definition of "qualifying earnings". However, **clause 8** would provide a new and more flexible mechanism for revising both it and the earnings trigger:

> 81. The new section 14 provides that the Secretary of State must consider in each year whether the amounts for the automatic enrolment earnings trigger, or the upper or lower trigger of the qualifying earnings band, should be increased or decreased. The clause provides that the Secretary of State may take into account national insurance earnings limits and thresholds, the income tax personal allowances, the level of the basic state pension for single adults, or the general level of prices and earnings. The Secretary of State may also consider any other factors that are considered relevant. Any changes will be made by order.[57]

In Public Bill Committee, Rachel Reeves moved an amendment which would provide for the earnings trigger for auto-enrolment to be set at the level of the NI Primary Threshold and that restrictions should be placed on the extent to which the trigger could be increased in future.[58] She was concerned about those workers would be excluded from the scope of auto-enrolment, particularly if the earnings trigger increased further:

> There is also a serious question about where the trigger will go. If the Government continue with their plan to increase the basic personal allowance to £10,000, that will further increase the numbers excluded from automatic enrolment. Indeed, when he appeared in front of the Work and Pensions Committee, the Minister said that if the automatic enrolment threshold were raised to £10,000 in line with the PAYE threshold, 1.5 million people would drop out of automatic enrolment.[59]

Pensions Minister, Steve Webb, explained that the Primary Threshold had gone up by more than inflation in April 2011,[60] so that it was now only about £250 below the Government's proposed earnings trigger for auto-enrolment:

> [...] last year the primary threshold, which is what amendment 28 proposes to insert in the Bill, was £5,715. However, since then it has gone up dramatically—not only by normal indexation but by £1,500. If we took amendment 28 at face value, therefore, we would be substituting £7,225 for the £7,475 in the Bill; so we have been having an hour-long debate about 250 quid. That is the difference between what the hon. Lady is proposing and what we are proposing in the Bill—although I accept the point that over time the amounts might diverge.[61]

This above-inflation increase in the NI Primary Threshold had led the Government to adjust its policy regarding minimum contributions. The intention was now that they should be

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[55] *Pensions Bill – Impact Assessment, Annex B*, para 2.11 (January 2010)
[56] Bill 183, section 5; 183-EN, para 54-9
[57] 183-EN
[58] PBC Deb, 12 July 2011 (morning), c171; Amendments 28 and 31-4
[59] Ibid, c172-3
[60] HM Treasury, *Budget 2011*, March 2011, para 2.30
[61] Ibid, c194

payable from "something like the lower earnings limit – a number of about £5,000 that has not yet been determined."[62]

The Minister argued that the Government's approach struck the right balance:

> The whole point of the clause is that enrolling at £5,000 uprated is too low. It would bring in people who probably should not be saving and people who would be putting in tiny amounts of money. At least for now, alignment with the tax threshold gives employers simplicity and removes some very heavy burdens on firms who employ low-paid people. It does not have a major effect on most people's long-term pension incomes, because people who earn more later in life will be auto-enrolled anyway.[63]

He argued it was important to have flexibility regarding future changes to the thresholds:

> The basis on which tax allowances are set, national insurance thresholds are set and pensions are set are constantly moving feasts and if we tie the auto-enrolment thresholds to a single feature of the system that is doing something else, there is a danger that we will have the wrong number—the number that does not best serve our purposes. The Johnson review suggested that the trigger should be in line with the PAYE tax threshold. We argued that there was a good reason for that, but that the lower limit of qualifying earnings should link to the primary threshold for national insurance and that the upper limit should rise in line with average earnings. Although we welcome those recommendations and recognise that there is a lot of sense in them, we do not want to be bound by them rigidly from one year to the next.[64]

Rachel Reeves argued that persistency of saving was important.[65] She said there was a difference between her proposal and that of the Government, which would increase if the earnings trigger for auto-enrolment rose to £10,000 in future. Overall, she was concerned that the Government was "watering down some of the provisions for automatic enrolment" and that the "bias should be towards including not excluding people and opting people into pensions to help them build up the pensions they need to secure a decent standard of living."[66]

Her amendment to align the auto-enrolment earnings trigger with the NI Primary Threshold was negatived on division by 11 votes to 8.[67] Her amendment to restrict future increases in the earnings trigger was negatived on division by 10 votes to 7.[68]

Optional waiting period

Clause 6 of the Bill would introduce an optional waiting period into the process, allowing employers to defer the auto-enrolment of a worker for up to three months, provided they give notice of this. The *Making Automatic Enrolment Work* review had argued that this struck a "reasonable balance between regulatory easement, particularly for smaller employers, and the risks to individuals' savings." In recognition of the impact on some individuals, it recommended "that eligible employees be allowed to opt in to the scheme during the waiting period".[69]

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[62] Ibid, c195
[63] Ibid, c203
[64] PBC Deb, 12 July 2011 (afternoon), c238
[65] PBC Deb, 12 July 2011 (morning), c204
[66] Ibid, c205-6
[67] Ibid, c208
[68] PBC Deb, 12 July 2011 (afternoon),c237
[69] Paul Johnson et al, *Making automatic enrolment work. A review for the Department for Work and Pensions',* October 2010, Cm 7954; Executive Summary

Rachel Reeves moved an amendment which would provide for an optional waiting period of one month rather than three. She argued that:

> [...] it is surely more appropriate for the delay to be limited to one month, first to limit the amount of people affected at any one time, and the extent to which they are affected over the course of their career, and, secondly, to reduce the risk of increasing opt-out rates.[70]

Furthermore, it was a compromise, in keeping with the consensus the Pensions Commission had arrived at.[71]

Responding, Steve Webb said it had been important to respond to the concerns of business:

> The Government came under huge pressure to exclude micro-employers. We came very close to taking a million people out of auto-enrolment, but it was precisely because we could say, "We recognise the pressure on micro-employers, so we've provided a waiting period. We've provided an increase in the threshold and we've made various other easements," that we were able to keep those million people in scope. That was the nature of the trade-off, and each time we try and unpick a bit of it, we risk undermining it.[72]

The waiting period would be optional, allowing employers to auto-enrol from day one if they wanted to.[73] A reduction to one month would, he said, place a "significant burden on the nation's employers, while creating negligible benefit for individuals' pensions."[74] Furthermore, the Government's approach would allow greater flexibility.[75] Rachel Reeves' amendment was negatived on division by 9 votes to 8.[76]

3.3 Certification requirements

The Pensions Commission recommended the establishment of a National Pension Saving Scheme (NPSS) for those not presently covered by adequate pension arrangements. However, where an employer already had good arrangements in place, it was considered important that they should be able to continue with these.[77] To ensure that workers were not disadvantaged as a result, the alternative scheme would need to satisfy a test designed to ensure its arrangements were "at least as favourable as those which NPSS would provide."[78] The Commission proposed that Defined Contribution (DC) schemes should be eligible for use for auto-enrolment if they had contribution rates at least equal to the minimum required for the NPSS (8% in total, including 3% from the employer), net of charges.[79]

The Labour Government agreed that a National Pension Saving Scheme should be established. It is now called the National Employment Savings Trust (NEST). Where an

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[70] PBC Deb, 12 July 2011 (afternoon),c211

[71] Ibid; Pensions Commission, *A New Pension Settlement for the Twenty-First Century; The Second Report of the Pensions Commission,* November 2005, p369

[72] PBC Deb, 12 July 2011 (afternoon),c226

[73] Ibid, c226-7

[74] Ibid, c229

[75] Ibid, c231

[76] Ibid, c236

[77] Pensions Commission, *A New Pension Settlement for the Twenty-First Century; The Second Report of the Pensions Commission,* November 2005, chapter 10, p362

[78] Ibid, p363

[79] Pensions Commission, *A New Pension Settlement for the Twenty-First Century; The Second Report of the Pensions Commission,* November 2005, p363; DC schemes typically pay out a sum based on the value of a member's fund on retirement, with the level of pension depending on factors such as the level of contributions paid and investment returns

employer intended to use a DC scheme as an alternative to NEST, it would need to offer contributions of at least 8% of "qualifying earnings", including 3% from the employer. However, in a departure from the Pensions Commission's proposed approach, it decided that charges should not form part of the exemption test, at least in the first instance.[80]

When the *Pensions Bill 2007-08* was before Parliament, there were concerns that the proposed test could prove complex for employers, whose definition of pensionable earnings was generally different to the definition of "qualifying earnings" used for auto-enrolment purposes.[81] In an attempt to address these concerns, the Labour Government amended the legislation, introducing provisions for employers to certify that a scheme met the "forthcoming quality standard".[82] The October 2010 *Making automatic enrolment work* review provided an update on work between DWP and employers to develop a suitable certification process. In broad terms, employers would be able to certify that a scheme met the requirements if it provided for contributions of at least nine, eight or seven percent, depending on its definition of pensionable pay.[83]

Clause 10 of the Bill would introduce alternative arrangements for employers to certify that a money purchase scheme satisfied the "quality requirement" (allowing it to be used for auto-enrolment). The clause was amended in the House of Lords, in response to concerns that the original wording gave too broad a regulation-making power to the Secretary of State.[84] A further amendment was made at Public Bill Committee stage in response to these same concerns.[85]

Teresa Pearce moved an amendment which would require an employer using an alternative pension scheme to NEST to "take into account the level of charges." Another amendment would require the scheme to be protected "to the same level as stakeholder terms and conditions."[86]

Steve Webb agreed the issue was important because even relatively small differences in charges could make a big difference to an individual's final pension pot.[87] However, he did not think the proposed amendments would achieve the intended objective. Firstly, there would be the question of what to do with firms who did not comply. Secondly, the stakeholder model of protection could not be applied directly to auto-enrolment. For example, the cap on charges for stakeholder pensions only related to one type of charge – annual management charges (AMCs).[88]

The Minister explained that DWP guidance would specify that there should be "transparency in relation to charges" in the default funds that schemes would be required to offer.[89] Overall, he thought the risk of people facing high charges was limited. There would be competition to

[80] DWP, *Personal accounts: a new way to save*, Cm 6975, December 2006, para 6.21

[81] See, for example, PBC Deb, 24 January 2008, c214 [Andrew Selous]; and HL Deb, 23 June 2008, c1292 [Baroness Noakes]

[82] HL Deb, 19 November 2008, c1142-3 [Lord McKenzie]; This is now in *Pensions Act 2008,* section 28

[83] Paul Johnson et al, *Making automatic enrolment work. A review for the Department for Work and Pensions,* October 2010, para 6.5.2

[84] HL Deb, 27 April 2011,c124-5; For on the background to this, see Library Research Paper RP11/52 *Pensions Bill,* section 3.3

[85] PBC Deb, 12 July 2011 (afternoon), c241-5. A new clause (now clause 12 of Bill 222 deals with certification for non-UK schemes)

[86] PBC Deb, 14 July 2011 (morning), c261; For a brief overview, see Directgov: Stakeholder pensions. For information on the background to the introduction of stakeholder pensions, see Library Research Paper 01/69 *Stakeholder pensions*

[87] PBC Deb, 14 July 2011 (morning), c262

[88] Ibid, c265

[89] PBC Deb, 14 July 2011 (morning), c262; DWP, *Guidance for offering a default option for defined contribution automatic enrolment pension schemes,* May 2011

provide pension schemes to large firms and it was expected that the presence of NEST would drive charges down. As regards small firms, the industry had previously not provided for them because they were not profitable and it seemed unlikely that this would change now. Furthermore, the Government had the power under the *Pensions Act 2008* to cap excessive charges and the industry was aware of that.[90]

3.4 Other issues

National Employment Savings Trust

The National Employment Savings Trust (NEST) was set up for people without access to adequate workplace pension arrangements.[91] Two policies were designed to ensure it was focused on its target market (broadly speaking, those on low to moderate earnings without access to adequate pension arrangements).[92] These were an annual cap on contributions to NEST,[93] and a general prohibition on transfers between it and other pension products and schemes.[94]

Both policies are to be reviewed in 2017.[95] However, the *Making automatic enrolment work* review saw facilitating transfers as "critical to the success of the reforms" and recommended a review as a matter of urgency:

> Government and regulators should review as a matter of some urgency how to ensure that it is more straightforward for people to move their pension pot with them as they move employer, so that by the time of the 2017 review the more general issue of pension transfers has been addressed and NEST is able to receive transfers in and pay transfers out.[96]

It also recommended that the Government should legislate for the removal of the contributions cap in 2017. This would facilitate greater flexibility for savers once the reforms were bedded in.[97]

Teresa Pearce moved amendments to remove the cap on contributions and the prohibition on transfers.[98] In response, Steve Webb said the Government would produce a document on transfers between pension schemes generally, including NEST, in the autumn. The goal should be to enable people with small pots of pension saving "to consolidate their pension assets, be aware of them and get the best value for money." However, there were complex issues to consider, For example:

> What would happen if they moved from a firm with a relatively low-cost pension scheme to one with a high-cost scheme? It might be in their financial interest not to consolidate their previous pension into a new scheme, because even with active member discounts and so on the previous pension may still do better than the old on. Should there be a default system for moving, or a system of advice?[99]

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[90] Ibid, c263

[91] Pensions Commission, A New Pension Settlement for the Twenty-First Century; The Second Report of the Pensions Commission*,* November 2005, chapter 10, p362

[92] DWP, *Personal accounts: a new way to save,* December 2006, Cm 6975, para 1.1

[93] *Pensions Act 2008,* s70

[94] DWP, *Personal accounts: a new way to save,* December 2006, Cm 6975, para 7.16

[95] *Pensions Act 2008,* s74

[96] Paul Johnson et al, *Making automatic enrolment work. A review for the Department for Work and Pensions,* October 2010, p131 and p164

[97] Ibid, p163

[98] PBC Deb, 14 July 2011 (morning), c266

[99] Ibid, c275

He added that the Government had been able to justify providing State Aid to NEST because it was "constrained in terms of transfers and the contribution cap." If it lifted both restrictions immediately, it could potentially face a legal challenge.[100] The amendment was withdrawn.[101]

Information about pensions

Teresa Pearce proposed that the Secretary of State should be required to create a single place where all relevant information on pensions was available for employers and employees. [102] Steve Webb agreed that provision of information would be important. The principal duty for supplying information to employers would lie with the Pensions Regulator. As regards individuals, the Government would start by "selling the notion of how important it is to save." It would then gradually build up the "auto-enrolment link of communications" through organisations such as NEST, the Pensions Advisory Service and the Money Advice Service.[103]

3.5 Other Government amendments

The Government made a number of amendments to the auto-enrolment provisions, mainly technical in nature.[104] A new clause was introduced to the Bill to give the Government power to exempt "certain cross-border employment" from the auto-enrolment duty.[105] This was to enable it to address a potential tension between:

> [...] regulations under the Pensions Act 2004 that implement the cross-border provisions of IORP—the EU institutions for occupational retirement provision directive—into domestic law and the subsequent duties under the 2008 Act on employers to automatically enrol UK workers into a workplace pension scheme.[106]

The Minister wrote to the Committee after the debate with further information on four issues: whether "tips and troncs" should count as qualifying earnings; administrative costs to employers; employer compliance; and reporting on automatic enrolment.[107]

4 Occupational pensions

4.1 Indexation and revaluation

There are statutory requirements on Defined Benefit pension schemes to index pensions in payment and revalue the deferred pensions of early leavers, in line with prices subject to a cap.[108] Many schemes provide for more generous increases in their rules.[109]

On 8 July 2010, the Government said it that it would in future use the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI) for setting the annual statutory minimum increases.[110] Because CPI inflation tends to be lower than RPI, this change generally has a beneficial impact on pension schemes, reducing their liabilities. However, without a change in the legislation, those schemes whose rules committed them to increasing pensions in line

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100 Ibid, c276. For a discussion of the financing provided for NEST, see Library Standard Note SN 04826 National Employment Savings Trust (NEST)
101 Ibid, c280
102 Ibid, c280-1
103 PBC Deb, 14 July 2011 (afternoon), c289
104 PBC Deb, 12 July 2011 (morning), c169, c208; PBC Deb, 12 July 2011 (afternoon), c236-7, c247-8
105 Clause 17 of Bill 222
106 PBC Deb, 12 July 2011 (afternoon), c249-50 [Steve Webb]
107 House of Commons Deposited Paper DEP 2011-1220
108 Pensions Act 1995, s51 as amended and *Pension Schemes Act 1993,* Part IV, Chapter II; *Pension Schemes Act 1993,* Part IV, Chapter II
109 HC Deb, 19 July 2010, c4
110 HC Deb, 8 July 2010, c14-16 WS

with the RPI would actually see their costs increase. This is because, in those years in which the CPI exceeded the RPI, they would be required to increase pensions by the higher amount. Because it was not the Government's intention to increase costs for these schemes, **clause 15** is designed to remove this "CPI underpin".[111]

The Government had initially thought that it was not necessary to introduce equivalent provision to remove the possibility of acting as a CPI acting as an "underpin" for revaluation purposes.[112] However, Steve Webb explained at Public Bill Committee stage that, following consultation, the Government had decided to amend the Bill to provide that if a scheme revalued by RPI, that would be good enough: the Government would not insist on CPI revaluation, even if that would have been higher. A further amendment would make the application to pensions in payment easier – the test would now "target whether RPI-based increases have actually been paid, not simply whether the rules require them." [113]

Rachel Reeves proposed that the Secretary of State should be required to publish a triennial report about the impact of CPI on accrued benefits and pensions. She explained that the Opposition supported the use of the CPI rather than the RPI "in the short term as a means to reduce the deficit" but not on a permanent basis.[114] She also questioned whether it was right to use the same measure of inflation for pensioners and other groups. If the Government wanted a measure more appropriate pensioners, they could consider the work done by Age UK and others to develop a "silver retail prices index".[115]

Responding, Steve Webb said that while it was likely that pensioners were experiencing a higher rate of inflation than either CPI or RPI at present, over time there was "no systemic difference between pensioner inflation and non-pensioner inflation"[116] Overall, the Government thought the CPI was an appropriate measure:

> Our judgement is that across the board for indexing benefits, tax credits, public sector pensions and state earnings-related pensions, we need to have a consistent measure of inflation, properly constructed, with a basket of goods that works and that property reacts to price changes. This is what we believe the CPI does, but we do not have a closed mind on the matter. If the experts come back to us and say that we can do a better CPI that includes owner-occupied costs in a new way, we will certainly look at doing so.[117]

The annual uprating statement is debated each year and the Minister was not convinced that a further report in three years' time, of the type proposed in the amendment was necessary.[118]

Malcolm Wicks asked about the impact of the switch to the CPI on pensioners. In response, Steve Webb explained that the impact would depend on whether the scheme provided indexation and revaluation in accordance with the statutory minimum, or whether it had RPI written into its rules.[119] Three quarters of schemes had RPI written into their scheme rules for indexation but only a quarter had done this for both indexation and revaluation. The one quarter of schemes with RPI-linked indexation and revaluation would not see a change in their liabilities (though without legislation to remove the CPI underpin, they would have seen

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[111] Bill 183 - EN, para 101
[112] *Pensions Bill 2011,* MPs' information pack, page 76
[113] PBC Deb, 14 July 2011 (afternoon),c291-2
[114] Ibid, c293
[115] Ibid, c297
[116] Ibid, c300
[117] Ibid, c308
[118] Ibid, c308
[119] DWP, *Impact of the move to CPI for occupational pensions*, 12 July 2011

an increase). Those with RPI-linked indexation but revaluation by the statutory minimum would see liabilities reduce by an average of 16%. Those schemes which did both indexation and revaluation according to the statutory minimum (less than one in five schemes) would see a 20% reduction in liabilities. As regards the impact on scheme members, the Minister said:

> If a person gets done by CPI on revaluation and CPI on indexation, and they are an average person leaving the scheme 15 years before the end on a average income with average characteristics, it might be a 20% impact over the course of their retirement. So it is an average worst-case scenario. [120]

The impact on individuals would "vary enormously according to age, length of service and so on."[121]

4.2 Increases in PPF compensation

Rachel Reeves also asked why the Government was not allowing the Board of the Pension Protection Fund (PPF) to decide which measure of inflation should be used for PPF compensation purposes.[122] Malcolm Wicks, who was Pensions Minister when the legislation to establish the PPF was before Parliament, also suggested that now the PPF Board was established, it should have been trusted to decide which index to use.[123]

Steve Webb responded that the PPF Board did not have discretion to make up the rules but rather implemented what was in legislation. Furthermore, PPF compensation was designed to reflect statutory minima. The intention was not to provide compensation that mirrored what an individual scheme would have provided:

> It is trying to provide a measure of security, hence the 90%, the cap and the standardisation of terms in the PPF. When someone goes into the PPF, they do not get exactly what their scheme would have provided on their scheme's rules. They get, essentially, a safety-net scheme. That is why using CPI as part of that is the consistent thing to do.[124]

The impact on individuals affected would vary hugely. At an aggregate level, it would result in "a reduction of £500 million in the liabilities of the PPF in net present value."[125]

The Committee agreed by 11 votes to 6 that **clause 16** should stand part of the Bill.[126]

4.3 Indexation for cash balance benefits

Clause 17 removes the requirement for cash balance benefits to be indexed under section 51 of the *Pensions Act 1995.* The Government says this is intended to provide greater choice for individuals.[127] At Committee Stage, the Government amended the clause to:

> [...] clarify the operation of the clause in relation to cash balance schemes that include periods before 6 April 1997, where the scheme has contracted out of the state additional pension system in relation to an earner's employment.[128]

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[120] PBC Deb, 14 July 2011 (afternoon), c305
[121] Ibid, c305
[122] Ibid, c294
[123] Ibid, c315
[124] Ibid, c317-8
[125] Ibid, c318
[126] Ibid, c319
[127] DWP, *Pensions Bill 2011 – MPs' Information pack*, page40. See also Bill 183-EN, para 107-10

5 Other issues

5.1 Investment

Labour MP, Cathy Jamieson, moved an amendment calling for "a review, or at least clarification of the current legal obligations on those who manage people's savings in funds to work towards and protect their best interests." She said there was "significant and growing confusion about the nature and scope of those duties":

> My concern is that many trustees and managers are either afraid or unwilling to consider the wider impact of long-term risks and factors, such as climate change or systemic risk, that would impact on their portfolios but perhaps cannot be easily quantified in the short term.[129]

Rachel Reeves asked about the role of "pension funds and the importance of fiduciary duty in terms of creating that long-term value."[130]

Steve Webb responded that it was "not the duty of trustees simply to maximise short-term returns." The issues would be considered as part of a review established by the Department for Business, Innovation and Skills under John Kay:

> His review of equity markets and long-term decision making - we have talked about short-termism – is due to publish its findings in summer 2012, and it will specifically consider the issues of investment governance raised by the new clause.[131]

The amendment was withdrawn.[132]

5.2 Other provisions in the Bill

Provisions in the Bill on which there was little debate other than an explanation from the Minister are listed in the table below.

Provision	Reference
Clause 2 – abolition of certain additions to the state pension	PBC Deb, 7 July 2011 afternoon, c162
Clause 3 – consolidation of additional pension	PBC Deb, 7 July 2011 afternoon, c164
Clause 18 – Pension Protection Fund	PBC Deb, 14 July 2011 afternoon, c321
Clause 19 – Financial Assistance Scheme – transfer of assets	PBC Deb, 14 July 2011 afternoon, c321-2
Clause 25 – Contributions towards cost of Judicial Pensions	PBC Deb, 14 July 2011 afternoon, c331-2

[128] PBC Deb, 14 July 2011 (afternoon), c320
[129] Ibid, c323-4
[130] Ibid, c326
[131] Ibid, c330-1
[132] Ibid, c331