Pensions Bill 2013/14 – House of Commons stages

Standard Note: 06634

Last updated: 27 November 2013

Author: Djuna Thurley (pensions) and Steven Kennedy (bereavement benefits)

Section Business and Transport Section

The *Pensions Bill 2013/14* was introduced in the House of Commons on 10 May 2013. Its main elements are to:

- Introduce the single-tier state pension for future pensioners from April 2016, replacing the current basic State Pension and additional State Pension;

- Bring forward the increase in the State Pension age (SPA) to 67 to between April 2026 and 2028 and to provide for a periodic review of the SPA;

- Reform benefits for bereavement by introducing a new Bereavement Support Payment, with support focused on the period immediately following bereavement;

- Provide for a system of automatic transfers so that a small pension pot will follow an individual to their new pension scheme when they change jobs;

- Make amendments to *Pensions Act 2008* in relation to automatic enrolment in to workplace pension schemes, which started to be introduced from October 2012; and

- Make other amendments related to private pensions, including the abolition of "short service refunds", a new objective for the Pensions Regulator; and provision for regulations to prohibit the offer of incentives to transfer certain pension rights.

The Bill had its Second Reading on 17 June 2013. The Public Bill Committee had twelve sittings between 25 June and 12 July 2013. The Government made some amendments to the provisions on bereavement benefits and to one of the clauses related to auto-enrolment, which proved uncontroversial. It also added a new clause relating to Pension Protection Fund compensation for people with long service. No Opposition amendments were agreed to. The Government made further amendments to the Bill at Report Stage on 29 October 2013. Again, no Opposition amendments were agreed to.

The Bill has now passed to the House of Lords, where it is scheduled to have its Second Reading on 3 December 2013. The House of Lords Library has produced a note in advance of this debate – LLN 2013/37 Pensions Bill (HL Bill 55 of 2013/14).

This note aims to provide an overview of the debates on the Bill in the House of Commons. The background is covered in more detail in Library Research Paper RP 13/37 Pensions Bill. A separate note will follow the Bill's progress through the House of Lords.

Contents

1 Background

1.1 Overview

The Government published a draft Pensions Bill on 18 January 2013, including proposed reforms to the State Pension. The draft Bill and supporting documents, including impact assessments, can be found on the Gov.UK website – here. The Work and Pensions Select Committee conducted pre-legislative scrutiny of the single-tier State Pension elements in the draft Bill, publishing its report on 4 April 2013.[1]

In the 2013 Queen's Speech, the Government announced that a Pensions Bill would be brought forward to "create a simpler state pension system that encourages saving and provides more help to those who have spent years caring for children."[2] The purpose and scope of the Bill would be as follows:

> The purpose of the Bill is to:
>
> The Pensions Bill would introduce a single-tier pension system, bring forward the increase in State Pension age to 67 and lay the framework for its regular review. It would also introduce a system for the automatic transfer of small pension pots and reform bereavement benefits.
>
> The main benefits of the Bill would be to:
>
> - Reform the UK pensions system and help people today save for their retirement
> - Make it clearer to people what they will get from the state when they retire, reduce means-testing and provide a firmer foundation for saving
> - Maintain the long-term sustainability of the system and help ensure it remains fair between generations
>
> The main elements of the Bill are:
>
> **The single-tier State Pension**
>
> - A new flat rate pension set above the basic means test to replace the current two-tier system of basic State Pension and earnings-related additional State Pension, to be implemented from April 2016.
>
> **Changes to State Pension age**

[1] Work and Pensions Select Committee press release, 22 January 2012, 'Committee to examine the Government's State Pension reform plans'; Work and Pensions Committee, The Single-tier State Pension: Part 1 of the draft Pensions Bill, Fifth Report of 2012-13, HC 1000, 4 April 2013
[2] The Queen's speech 2013 – background and briefing notes

- Two measures in relation to State Pension age: one to bring forward the increase to State Pension age to 67 by eight years, to take place between 2026 and 2028; and another to enable a regular review of State Pension age in the light of rising life expectancy.

Providing for automatic transfer of small dormant pension pots and abolishing short service refunds

- A framework for a system of automatic transfers so that someone's pension pot will follow them to their new pension scheme when they change jobs. It also provides for abolition of short-service refunds for defined contributions trust-based schemes for people who leave a scheme within two years.

New objective for the Pensions Regulator

- A new statutory objective for the Pensions Regulator to consider minimising any impact on the sustainable growth of sponsoring employers.

The Bereavement Support Payment

- Reforming the existing suite of bereavement benefits through the introduction of the Bereavement Support Payment - a single benefit to support people following bereavement.[3]

1.2 Pre-legislative scrutiny

On 4 April 2011, the Government published a consultation paper setting out two options for reform of the State Pension to "better support people to save for their retirement." One of these options was to introduce a Single-tier State Pension in place of the existing two tiers.[4] A White Paper published in January 2013 set out the Government's proposal to introduce a single-tier State Pension for future pensioners, set at above the level of the SMG and uprated by at least the growth in earnings. Its key features were summarised as follows:

> 14. The single-tier pension will:
>
> • be set above the basic level of means-tested support (the Pension Credit Standard Minimum Guarantee, currently £142.70 per week for a single pensioner). The current legislative requirement to increase the basic State Pension at least in line with average growth in earnings will also apply to the single-tier pension. For illustrative purposes, this document assumes uprating of the single-tier pension by the triple lock, in line with coalition policy for uprating the basic State Pension;
>
> • replace the State Second Pension, contracting out and outdated additions, such as the Category D pension and the Age Addition. The Savings Credit element of Pension Credit will also close to pensioners reaching State Pension age after the implementation of the single-tier pension;
>
> • require 35 qualifying years of National Insurance contributions (NICs) or credits for the full amount. There will also be a minimum qualifying period of between seven and ten qualifying years (modelled as ten throughout this document). Those with fewer than 35 qualifying years but above the minimum qualifying period will receive a proportionally smaller single-tier amount;

[3] Ibid

[4] DWP, A state pension for the 21st century, Cm 8053, April 2011

• be based on individual qualification, without the facility to inherit or derive rights to the state pension from a spouse or civil partner; and

• continue to allow people to defer claiming their state pension and receive a higher weekly state pension in return. The deferral rate will be finalised closer to the planned implementation date. It will no longer be possible to receive deferred state pension as a lump-sum payment.

15. Additional transitional arrangements will protect the position of those who have a pre-implementation National Insurance contribution record and are described below. [5]

The Work and Pensions Select Committee conducted pre-legislative scrutiny of the single-tier elements in the draft Bill.[6] In its report, published on 26 March 2013, the Committee supported the principle of the single-tier State Pension but thought it was vital that the Government decided on its high-level strategy for communicating the changes to the public.[7] The Government's response to the Select Committee was published alongside the Bill. It includes a summary of the changes compared to the draft Bill published in January.[8]

More information about the policy can be found on Gov.UK – Making the State Pension simpler and fairer and in Library Standard Note SN 6525 Single-tier State Pension.

2 The Bill

The *Pensions Bill 2013/14* (HC Bill 6) was introduced in the House of Commons on 9 May 2013 and published, together with its Explanatory Notes, the following day. It extends to England, Wales and Scotland:

TERRITORIAL EXTENT

28. The Bill extends to England and Wales and to Scotland. The subject matter of the Bill is transferred in respect of Northern Ireland and, as such, is the responsibility of the Northern Ireland Assembly. Accordingly, the Bill only extends to Northern Ireland for purposes of amendment to legislation with UK-wide extent and, with one exception, any such amendments do not deal with transferred matters.

29. The exception is in respect of the reference to Northern Ireland legislation in Clause 41. A legislative consent motion will be sought in respect of this provision.[9]

DWP has produced a Pensions Bill Impact Assessment – Summary of Impacts, October 2013.[10] There are also Impact Assessments for specific parts of the Bill.[11] It has produced a memorandum to explain the purpose of the delegated powers proposed and why the delegated legislation is being used.[12] It has also produced Keeling versions showing the changes to existing as a result of the Bill. Information about the progress of the Bill, and papers related to it, can be found on the Parliament website - here.

---

[5] DWP, The single-tier pension: a simple foundation for saving, January 2013 (Cm 8528)
[6] Work and Pensions Select Committee press release, 22 January 2012, 'Committee to examine the Government's State Pension reform plans'
[7] Work and Pensions Committee press release, MPs publish report on State Pension reforms, 4 April 2013
[8] DWP, Government Response to the Fifth Report of the House of Commons Work and Pensions Select Committee, Session 2012-13, into Part 1 of the draft Pensions Bill, CM 8620, May 2013, Annex A
[9] Bill 6-EN
[10] See also, *Pensions Bill Impact Assessment – Summary of Impacts* (May 2013)
[11] These update Impact Assessments produced in May
[12] DWP, Pensions Bill delegated powers: memorandum to the Delegated Powers and Regulatory Reform Committee, October 2013; This is an update of a Delegated Powers memorandum produced in May 2013

The Government hopes to get Royal Assent for the Bill by Easter 2014.[13]

3 Second Reading debate

The Bill had its Second Reading in the House of Commons on 17 June 2013. The Library Research Paper prepared for RP 13/37 Pensions Bill (12 June 2013).

Opening the debate, Secretary of State for Work and Pensions, Iain Duncan Smith gave an overview of the main features of the Bill. For example:

> Between now and 2035 the number of people in the UK over state pension age is currently set to increase from 12.4 million to 15.6 million, a rise of 26%. With ever more pensioners, sustainable pension provision is ever more pressing, and will always be a priority for this Government—and, I would hope, for all Governments. To that end, the Bill provides for the most important reform for a generation: the introduction of the single-tier pension. This new pension system reflects the fact that working patterns and family life have changed over years, that people need to take personal responsibility for planning and saving for their retirement, and that people are living longer and drawing their state pension for longer than their ancestors would ever have done or, ironically, ever expected to do. [...]
>
> Measures in the Bill will ensure that automatic enrolment works as intended. We need to address some technical issues, clarify the existing powers and provide for the automatic transfer of small pension pots. The last of those is vital, because a quarter of people already lose track of at least one pension, and it is estimated that some 50 million dormant pots will exist by 2050 if we do nothing about this issue. [...]
>
> The regular review of the state pension age will ensure that the issue is considered in every Parliament, which will avoid the necessity for future Governments to have to take emergency action, as we did earlier. Men and women retiring at 67 in 2028 can expect to receive a pension for roughly just as long as those retiring at 65 today. The review will work on the same principle - namely, that people should spend a given proportion of their lives drawing a state pension. By regularly considering the state pension age in the light of changing life expectancy, we can ensure that our pension system remains on firm foundations. That will ensure a continuing and fair social settlement between young and old.
>
> Another long overdue element of reform in the Bill relates to bereavement benefits. As we bring our pension system into the 21st century, we must do the same with our bereavement benefits. They form an important part of our state safety net, but they have remained unchanged for too long. They now reflect a time gone by, in which the life of a widow was quite different from what it is today. The conclusion, after long discussion, is that we have an outmoded system of complicated payments and contributions that, at worst, can harm people's long-term job prospects by distancing them from the labour market.[14]

Shadow Secretary of State, Liam Byrne, indicated that the Labour Party would not vote against the Bill at Second Reading:

> One of the chief reasons why the Labour party will not stand in the Bill's way today is that we recognise the genuine effort to build on the strong foundations that we left. Indeed, our only disappointment today is that we think the Secretary of State is

[13] PBC Deb 2 July 2013 c143 [Steve Webb]
[14] HC Deb, 17 June 2013, c647-654

> proposing to build only a halfway house on those strong foundations. We think that the Bill is merely half a reform.[15]

He raised a number of questions about the reforms. Regarding the single-tier aspects of the Bill he asked about:

- the 700,000 women born between April 1951 and 1953 who would not be entitled to the single-tier State Pension although a man born on the same day may be;
- The requirement to have 35 qualifying years for a full single-tier pension, rather than 30 as proposed in the April 2011 Green Paper.[16]

Regarding the proposals for a periodic review of the State Pension age, he said:

> The Opposition will not stand in the way of proposals in the Bill to move forward the State Pension age, but we want to put it on the record that we are concerned about the proposal to review it every five years. The goalposts on state pension age have already moved a number of times in this Parliament, which is not good for stability, certainty or long-term planning.[17]

He thought it was wise that, over the very long term, the percentage of GDP spent on the state pension system would come down, compared to the position if the current system continued. In this context, reform of the private pension system was particularly important:

> Let us be clear that the hard wind-up of the state second pension will create a notional loss for many people under the age of 59.[...] The situation is even more grave for those who are just starting work: those in their 20s who will not retire until after 2060. By the Department for Work and Pensions' own calculations, the majority of them will have lower pensions under the single-tier system, as the income replacement rate will fall from 38% to just 30%—a big drop that points us to the gaping hole where reform of the private pension system should be.[18]

He said the constraints on NEST (e.g. the annual cap on contributions and the prohibition on transfers) should be lifted. He thought further action was needed on charges and achieving economies of scale.[19]

He was also concerned at the impact of the abolition of the contracted-out rebate on public service employers:

> [...] how on earth will the national health service, local government, teachers and the police find £4 billion-worth of national insurance contributions from 2016 onwards?[20]

Later in the debate, Shadow Pensions Minister, Gregg McClymont raised the issue of women close to retirement who had expected to be able to claim on the basis of their (former) spouse's contributions:

> The Work and Pensions Committee raised the issue of those who are close to retirement and who had planned to retire based on their partners' contributions. Those

[15] Ibid, c654
[16] Ibid, c656
[17] Ibid, c660
[18] Ibid, c662
[19] For more detail see, Supporting automatic enrolment: A call for evidence on the impact of the annual contribution limit and the restrictions on transfers on the National Employment Savings Trust, November 2012
[20] Ibid, c661

> people face a difficult transitional situation. We believe that the Government should consider offering those individuals something along the lines of the 15 years' transitional protection that the Select Committee suggested.[21]

He suggested that the Government could go further with some of its reforms to private pensions:

> We called for the Government to deal with consultancy charges and auto-enrolment practices, and we welcome moves in the Bill to give the Secretary of State the power to do that. He could go yet further in the Bill and clarify precisely what he will do.[...] Pot follows member [...] will be discussed in great detail in Committee. Most of the industry takes a different view to the Minister, so I look forward to discussing it with him.[...] The Opposition believe that the principle of the flat-rate state pension is a good one. We will not stand in the way of the Bill today, but unless the Minister grasps the nettle on the private pensions industry, the Bill will remain half a reform.[22]

Winding up the debate, Pensions Minister Steve Webb responded to the points that had been raised. Regarding those women born between April 1951 and 1953 who would not qualify, he said:

> To be clear, they will receive their state pension on the day they would have got it if Labour had continued in office.[...] There is one exception to that. We have changed something for this group: we have given them a bigger pension, because of the triple lock. [...]
>
> Opposition Members drew a comparison between women in that age group and men born on the same day. Let us try a thought experiment: if we were to impose a sex change on all 700,000 women in this group, 95% of them would not thank us—financially at least, although perhaps for other reasons as well. Getting on for 95% of them would say, "Why did you do this to me? Yes, I might get another six quid a week, but I'll have to wait two or three years longer for it." That is not a good deal. We have worked out that it would take many of these women 30 years of retirement to recover what they lost through waiting longer for their pension.[23]

Regarding the requirement to have 35 qualifying years for the single-tier:

> To be clear, 30 years currently gets people a basic state pension of £110 a week, and 35 years gets people a full single-tier pension of £144 a week. We are therefore not comparing like with like. As my right hon. Friend the Secretary of State has said, the Government are merging a basic pension for which people work for 30 years with a second pension, for which people might work for 50 years. Thirty-five for the merged pension is therefore hardly ungenerous. If people who have already retired on the expectation of 30 years would have got more under the old rules than they will get under the new rules, they will get what they would have got under the old rules, so nobody in that situation will get less than they were expecting.[24]

Regarding those women who had expected to draw on their spouse's NI record, he said:

> My hon. Friend mentioned a specific and narrow group of people—childless homemakers. Interestingly, at the start of her speech, she said how important the

[21] HC Deb, 17 June 2013, c717
[22] Ibid, c719
[23] Ibid, c723
[24] Ibid, c720

> contributory principle was—I agree with that—and she was right that in many ways the Bill reasserts that principle. To reassert it, however, and then say that someone who has paid no national insurance, not been a carer, not been looking for work and not been too sick to work should none the less get a significant pension creates a tension. I can reveal to the House that she and I discussed this issue in the Tea Room before we got here, and she said, "But aren't you changing the rules late in the day?", as she also said in her speech. We have to strike a balance between moving to a new system and protecting people as we move, and not setting in aspic every single corner of the old system.[25]

Regarding the decision to adopt a "pot follows member" approach, rather than to use a "single aggregator" – NEST, for example:

> We are talking about a pot limit of £10,000, so if all the small pots in a single year went to NEST, it would be become enormous and unbalance the market. Unless we wanted NEST to become huge, we would have to have a low pot size limit to make it work, with NEST becoming the home of small lost pots. However, if we did that, we would end up with significant fragmentation.[26]

4 Public Bill Committee

The Public Bill Committee was chaired by Martin Caton and Anne Main. Its members included Pensions Minister, Steve Webb, and Shadow Pensions Minister, Gregg McClymont. The other members were:

- Tom Blenkinsop, *(Middlesbrough South and East Cleveland)* (Lab)
- Karen Bradley, *(Staffordshire Moorlands)* (Con)
- Oliver Colvile, *(Plymouth, Sutton and Devonport)* (Con)
- Sheila Gilmore, *(Edinburgh East)* (Lab)
- Richard Graham, *(Gloucester)* (Con)
- Andrew Griffiths, *(Burton)* (Con)
- Michale McCann, *(East Kilbride, Strathaven and Lesmahagow)* (Lab)
- Pamela Nash, *(Airdrie and Shotts)* (Lab)
- Christopher Pincher *(Tamworth)* (Con)
- Mark Reckless, *(Rochester and Strood)* (Con)
- Jonathan Reynolds, *(Stalybridge and Hyde)* (Lab/Co-op)
- Andrew Selous, *(South West Bedfordshire)* (Con)
- David Simpson, *(Upper Bann)* (DUP)
- Heather Wheeler, *(South Derbyshire)* (Con).

The Committee had twelve sittings between 25 June and 11 July 2013. In its first four sittings, it took oral evidence from a range of individuals and organisations:

First sitting, Tuesday 25 June 2013 (morning) - Age UK; the TUC; Cruse Bereavement Care; Childhood Bereavement Network.

Second sitting, Tuesday 25 June 2013 (afternoon) - National Association of Pension Funds; Association of British Insurers; the Pensions Regulator; Dr Ros Altman and Dr Hari Mann (independent pensions experts).

[25] Ibid, c722
[26] Ibid, c724

Third sitting, Thursday 27 June 2013 (morning); Pensions Policy Institute; Confederation of British Industry; Which?; 700,000 group

Fourth sitting, Thursday 27 June 2013 (afternoon). Union Pension Services Limited; the Pensions Institute; Baroness Hollis of Heigham and Pensions Minister, Steve Webb.

The Committee received 75 pieces of written evidence from other organisations and individuals. These can be found on the Public Bill Committee for the Pensions Bill 2013-14 section of the Parliament website.

Briefings from external organisations

A number of organisations produced briefings on the Bill for Committee stage:

Age UK, Pensions Bill – Second Reading briefing, June 2013

National Pensioners' Convention, Pensions Bill Briefing, July 2013

Association of Consulting Actuaries, National Association of Pension Funds and Association of Pension Lawyers, *Brief on 2013 Pensions Bill,* June 2013

Fair Pensions, *Pensions Bill 2013* – an opportunity to raise standards

4.1 Part 1– Single-tier State Pension

Overview

Part 1 of the Bill would provide for "a new flat rate pension set above the basic means test to replace the current two-tier system of basic State Pension and earnings-related additional State Pension, to be implemented from April 2016."[27] The Explanatory Notes provide the following overview:

> 21. This Part of the Bill contains provisions to reform the state pension system and introduce a new state pension. It replaces the current two-component system with a single-component flat-rate pension. It includes transitional provisions for:
>
> - people who have paid, been treated as having paid or been credited with National Insurance contributions in respect of tax years before the introduction of the new state pension;
> - inheriting entitlement from a late spouse or civil partner who had made National Insurance contributions in respect of tax years before the introduction of the new state pension;
> - women who, before 1977, elected to pay a reduced rate of National Insurance contributions; and
> - sharing a pension with a former spouse or civil partner upon divorce.
>
> 22. Provisions are made to allow people to postpone or suspend their entitlement to a state pension. It also contains provisions for a number of changes arising from the introduction of the new state pension, including the abolition of contracting-out for salary-related occupational pension schemes and the abolition of the savings credit

[27] The Queen's speech 2013 – background and briefing notes

> element of State Pension Credit for those people who reach pensionable age on or after the introduction of the new state pension.[28]

DWP has produced an impact assessment for the single-tier pension.[29]

Introduction on 6 April 2016 - clause 1

Clause 1 would provide for a person reaching SPA on or after 6 April 2016 to be eligible for the single tier State Pension. In line with the recommendation of the Work and Pensions Select Committee, the implementation date - 6 April 2016 - is on the face of the Bill.[30] The current arrangements would continue for people who reach SPA before 6 April 2016.[31]

Concerns have been expressed about a specific group of some 700,000 women born between 6 April 1951 and 5 April 1953 who would not be eligible for the single-tier although a man born on the same day may be.[32] The reason for this is that the SPA will still be unequal in April 2016. So, men born between those dates reach SPA at 65 *on or after* 6 April 2016 and are therefore eligible for the single-tier; whereas women born between those dates reach SPA between the ages of about 62 and 63, *before* 6 April 2016, and would therefore not be eligible. In a paper issued in response to these concerns in April 2013, the Government argued that women in this cohort will be able to draw their State Pension earlier than those men born on the same day and have the option of increasing their entitlement by deferring their claim. Furthermore, analysis by DWP suggested that the median difference between their entitlement under the current system and under the single-tier was around £6 pw.[33]

The Public Bill Committee took evidence from women affected. Marion Rees said they felt they had been disadvantaged in working life and were now being “discriminated against in this final hour”:

> During the 1970s, it was normal for women applying for work to be asked, as part of the interview process, about their plans for having children, the expectation being that they would give up work when they started a family, thereby prejudicing employers against giving them higher paid roles. Those women who did take time out of the workplace to raise their families, and other women in low-paid employment who have paid their contributions, now find they are being discriminated against at this final hour.
>
> The offer of being able to buy the necessary additional contributions to make up the shortfall is for many women not feasible. Nor is the suggestion that 85% of those women can defer their pension until the age of 65 in order to receive the single-tier pension. It is unlikely that the women will have a convenient pot of money at their disposal to subsidise the wait. It has been said that we should have planned for our retirement. How many did just that, only to find that poor financial management by those professionals to whom we entrusted our savings has now rendered those investments worth considerably less than expected?
>
> We have worked. We have paid our contributions, and all we ask is that we are treated fairly and equitably to enable us to receive the pension that is right for us. This pension

---

[28] Bill 6 - EN

[29] DWP, The Single-tier pension: a simple foundation for saving. Impact Assessment, DWP0028, May 2013

[30] DWP, Government Response to the Fifth Report of the House of Commons Work and Pensions Select Committee, Session 2012-13, into Part 1 of the draft Pensions Bill, Cm 8620, May 2013, page 11; *Pensions Bill 2013-14,* clause 1

[31] Bill 6-EN, para 32

[32] For more detail, see Library Note SN 6620 *Single-tier State Pension - women born between 1951 and 1953;* DWP, The single-tier pension: Note on the cohort of women born between 6 April 1951 and 5 April 1953.

[33] DWP, Note on the cohort of women born between April 1951 and April 1953, 12 April 2013

> is not a benefit. It is something to which we have contributed all our working lives. To say that we will, over the course of our pensionable lifetime, be many thousands of pounds better off is spurious. Who knows how long each of us is going to live?
>
> For the majority of people, a pension is not about how much they will receive over a period of 20 years or so, but how much money they have to live on that week.[...][34]

Catherine Kirby argued that the money gained from the abolition of contributing out could be used to meet the cost of bringing this group into single-tier entitlement.[35] Age UK said it had heard from a lot of current pensioners who on low incomes who felt there was a two-tier system and that this was unfair.[36]

In debate in Public Bill Committee stage, Shadow Pensions Minister, Gregg McClymont, moved an amendment to require the Government to conduct a review to determine whether all women born on or after 6 April 1951 should be included within the scope of the single-tier State Pension.[37] Sheila Gilmore, a member of the Work and Pensions Select Committee, was concerned that the women affected felt strongly that they had contributed and that some of them were already struggling financially and would find it difficult to defer their state pension. She asked the Government to look again at the issue:

> [...] the perfect storm of circumstances that has affected this cohort of women means that we should look positively in their direction and allow them to choose the old or the new system, whichever will be better for them. At this stage, we are not asking for such as amendment to be made, but for the information to be fully researched and considered, because in the two and a half years between now and the Bill's implementation, there will be ample opportunity to reconsider.[38]

Responding, Pensions Minister Steve Webb said he did not think this cohort of women was "uniquely disadvantaged":

> I want to compare them with two other groups: women who reached state pension age before April 2010, and those who do so after April 2016. In other words, there is a first, middle and later group. The argument is that the group in the middle is uniquely disadvantaged and should have special provision in law.
>
> Let us look at the three facets of their state pension. The first is the age at which they can get it; the second is the number of years they have to build up contributions; and the third is whether they are in the single tier or not. Let us give each of those groups a score for how well or badly they do. For the post-April 2016 group there is good news; they get single tier and a tick there. The bad news is that their state pension age could be anywhere between 63 and 68. Somewhere in the middle is the fact that they need 35 years for a full pension. For them, it is one good, one bad and one somewhere in the middle.
>
> For the group of women we are discussing, the good news is that they need 30 years to get a basic state pension. The middling bad news is a pension age of 61 to 63, which is not as high as the ones to come, but better than the ones before. The bad news is that they are not in single tier. For them, there is one good, one bad and one somewhere in the middle.

[34] PBC Deb 27 June 2013 Q145
[35] Ibid Q167
[36] PBC Deb 25 June 2013 Q1
[37] PBC Deb 2 July 2013 c120
[38] Ibid, c123-30

> For the pre-April 2010 women, the bad news is that they need 39 years for a state pension and they are not in single tier. The good news is that they have a state pension age of 60.[39]

He was also concerned that it would be difficult to conduct a review within six months of Royal Assent (expected by Easter 2014), make any changes needed to primary legislation as a result and still implement the single-tier State Pension by April 2016. He thought giving this cohort of women the option of being treated as a man with the same date of birth would be complicated. This was because the reforms were a package (including, for example, changes to the rules on deriving and inheriting State Pension rights and the abolition of Savings Credit) so much would depend on individual circumstances and how these changed over time.[40]

Entitlement at a full or reduced rate (clauses 2 and 3)

Clauses 2 and 3 provide that a person is entitled to the single-tier state pension at the full rate if they have reached SPA and have 35 qualifying years. A person with fewer than 35 qualifying years would be entitled to a pro-rata amount provided they have at least the minimum number of qualifying years (an amount to be specified in regulations, but no more than ten).[41]

The requirement to have 35 qualifying years for a full single-tier State Pension, is a change compared to the April 2011 Green Paper, which said 30 qualifying years would be required.[42] Sheila Gilmore asked about the reasons for the change.[43] Steve Webb responded that the number of qualifying years was one of the many different parameters the Government could change in order to meet its overall goal of cost neutrality. Whereas 30 qualifying years were needed for a full basic State Pension, the State Second Pension could continue to be accrued over up to 50 years working life. There was protection built in at the point of change – an individual's "foundation amount" in April 2016 would be the higher of their entitlement as valued under the current system or under the single-tier. In any case, people could opt to buy additional class 3 voluntary NICs to increase their entitlement. Overall, he argued that 35 qualifying years struck the right balance:

> We think that 35 years allows people to have about 15 non-qualifying years. Bear in mind, it is 35 years of contributions or credits. It is not just paid work; it is caring, being at home with young children and active job searching. It is a comprehensive definition of what a person has to do to get the qualifying year. We think that 35 out of about 50 is the right balance. Of course, there will be the odd year when the person does not qualify—there are a range of things that people can be doing—but it seems about right to ask people to be doing something creditable or contributing for roughly two thirds of their adult life. When people do not have 35 years, the amount is reduced pro rata, as with the present system. That is what clause 2(2) does.[44]

Regarding the requirement to have a minimum number of qualifying years, he said:

---

39 PBC Deb 2 July 2013 c134-5
40 Ibid, c137
41 See clause 2 (4) and (5) for the definition of qualifying year; Bill 6-EN, para 33-5; Work and Pensions Select Committee – see HC 1000-i 2012/13, para 72
42 DWP, A State Pension for the 21st century, Cm 8503, April 2011, p30
43 PBC Deb 2 July 2013 c141
44 PBC Deb 2 July 2013 c141-2

> It is worth reminding the Committee that until April 2010 that was how it worked. Broadly speaking, a person needed a 25% contribution record.[...] In an increasingly global world—if that is not a tautology—people move around; they build up a year here and a year there. We do not want to have a contributory pension where, given that every year will be one 35th of £144, we end up paying significant amounts of money all over the world to people who have hardly ever been here. We are saying that people need 10 years in the system. Bear in mind that that 10 years includes six years that they can buy—in fact, they can buy more than that. Given that people can buy voluntary years, this measure is not particularly draconian. Practically everybody who spends their life here will get 10 years.[45]

Gregg McClymont said the Opposition supported the clause. He said there was a “sensible case” for requiring a minimum of ten qualifying years for a single-tier State Pension. He said there was “a case for putting the number of years back up to 35, given increasing longevity”.[46] He also welcomed the “softening” of the rules for buying voluntary class 3 NICs.[47]

Level and rate of single-tier pension (clause 3)

The White Paper explained that the single tier would be set above the level of SMG (£142.70 pw in 2012/13/ £145.40 in 2013/14). For illustrative purposes, the White Paper assumed a starting level for the full single-tier pension of £144 per week. The precise level of the single-tier and the uprating policy would be decided prior to implementation.[48] **Clause 3** provides for the full rate of the new State Pension to be set in regulations:

> 33. The full rate of the new state pension which will be applicable for the first year will be set by regulations prior to the commencement of these clauses. [49]

These regulations would be subject to the affirmative procedure, which means that both Houses of Parliament must expressly approve them.[50]

Schedule 12 (14) provides for the uprating arrangements for the single-tier pension to reflect those for the current basic State Pension (i.e. the Secretary of State must increase it by a percentage not less than the percentage annual increase in the general level of earnings).[51]

Steve Webb indicated that the initial rate for the single State Pension in April 2016 would be set no later than Autumn 2015.[52] Once set, it could not be reduced by regulations.[53]

Entitlement at transitional rate (clauses 4 to 6 and Schedule 1)

Clause 4 to 6 would provide that a person is entitled to a state pension at the transitional rate if they reach SPA on or after the date the new State Pension is introduced and have qualifying years attributable to tax years before its introduction.[54] The calculation is provided

---

45 Ibid, c142

46 PBC Deb 2 July 2013 c143

47 The time limit for paying class 3 NICs for the years 2006-07 to 2015-16 has been extended for people reaching State Pension age on or after 6 April 2016 and who make a payment by 5 April 2023. See HMRC website When and how to top up your National Insurance Contributions

48DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013, p90

49 Bill 6-EN

50 For more detail, see House of Commons background paper – statutory instruments (SN 6509)

51 Bill 6-EN, para 36

52 PBC Deb 2 July 2013 c143

53 Clause 3 (3)

54 Bill 6-EN

for in **Schedule 1**.[55] **Schedule 2** would provide for the uprating arrangements. The value of the transitional rate up to the full rate of the single-tier State Pension would be uprated by earnings or higher. Any excess would be uprated in line with the annual increase in the general level of prices.[56]

Steve Webb explained that transitional arrangements were needed to protect those who had already accrued more than the amount of the single-tier State Pension in April 2016 and to take account of periods of contracting-out:

> In 2016, we will essentially consider two numbers, what people have built up so far under the current rules and what they would get under the single tier, and we will take the higher of those two numbers. That is called the "foundation amount" elsewhere in the Bill. Everyone will have a foundation amount and, once they have that number in 2016, years thereafter will simply build up at one thirty-fifth of £144—so, £4.11 a week—until they reach £144. Although working out that foundation number is a bit messy, once it has been done anybody will be able to find out what their foundation number is—they have the foundation number in the bank—and extra years simply add a fixed sum until they reach the flat-rate figure.
>
> [...]
>
> The first group of people for whom special rules are needed are those who already have more than £144. What we will do is take their 2016 foundation amount and, if it is more than £144, give them that as a foundation amount. They cannot add to it. Post-2016 contributions do not add to the figure, but they will be honoured.
>
> Let us say that someone has built up £160. The single tier is £144, and there will be an extra £16 of what is called a protected payment. The indexation rules are that the £144 gets earnings-linked—at least—or triple-locked, and the£16 gets CPI-ed, which is what would happen anyway to a SERPS pension; it is analogous to the current indexation in-payment for a SERPS pension. That is for people who have built up more than£144.
>
> What happens to the people who have been contracted out? That is the other big, tricky one. Again, an option would be to say, "2016 is a sunlit upland. We forget history and contracting out, and you just get your gross amount that you have built up, and you build on that." I would have loved to have done that, but it would have been totally unfair. If someone has spent their life paying full national insurance, and their neighbour has spent their life paying contracted-out national insurance, and I come along and say, "You can have a full pension anyway",people would be a bit cross.
>
> We have said, therefore, that in 2016 we will make a one-off adjustment for past contracting out. We will take away what we call the rebate-derived amount, which is sort of like the existing contracted-out deduction with a tweak. The basic idea is that we work out someone's 2016 foundation amount and we make a one-off deduction for the periods of their life when they paid less national insurance than their neighbour. That seems to us the only fair way to do it.
>
> If we adjusted that and said that that deduction—the rebate-derived amount—was like a stain on their record for the rest of their life, no one would get £144, because almost everyone has been contracted out for at least one year. Although contracting out these days is mainly a public sector phenomenon, historically it was not—more people were contracted out in the private sector than in the public sector. If someone worked for a big corporate, they were in a contracted-out pension scheme. As pensions have such a

[55] Bill 6-EN
[56] Bill 6-EN, para 50

> long history, even though now most contracted-out employees are in the public sector, historically most contracted-out employees were in the private sector.[...]
>
> If someone has been contracted out in the past, and they get less than the full amount in 2016, if they continue to work post-2016, they will build up towards the full£144. They will not get the full £144 without additional years post-2016, but they can build up towards it. That seems like the right balance. We could not ignore contracting out, but nor could we keep it in the system for another half a century, so we have allowed it to be worked out of the system. That strikes us as the right balance.
>
> That is the gist of clause 4. It will require people to have reached pensionable age, have the minimum number of years and have at least one year under the old system. It repeats the 10-year-minimum arrangement. Post-commencement years are those after 2016, while pre-commencement years are those under the 1978-2016 system or the pre-1978 system. The two will be added together.[57]

The Government had produced a new note for the Committee on the rebate-derived amount.[58]

Gregg McClymont moved an amendment that would require the Government to:

> [...] conduct a review to determine the costs and benefits of phasing the transition to a 35 year full pension requirement via an interim requirement of 30 years. Such a review shall be conducted within six months of Royal Assent of this Act and a report thereof laid before Parliament.[59]

He asked the Committee to consider the case of someone close to retirement who had an expectation of needing 30 qualifying years, now found they needed 35.[60] He asked for an analysis of the impact of this. The Opposition was concerned that there would be losers as a result and wanted to know more about what the extent of the losses might be.[61] He gave an example of a person who had contacted him on the issue:

> She retired early from her job because of her health, and was allowed to take a reduced pension at an early age on medical grounds, as people are often allowed to do. She will reach pension age post-2016, and she is concerned that it will be extremely difficult, if not impossible, for her to make up 35 years.[62]

Sheila Gilmore added that people might have made other arrangements if they had known that things would change again.[63] Steve Webb responded that:

> To clarify, we are moving from a situation where someone needs 30 years for a £110 pension, having accrued an earnings-related pension on top, to needing 35 years for a £144 pension. People talk about a full state pension as though we have moved the goalposts, but that is simply not the case.[...] If the old system gives them more than the new system does, they get what the old system would have given them – almost

[57] PBC Deb 2 July 2013 c145-6
[58] DWP, The Single-Tier Transition and Contracting Out, 26 June 2013
[59] PBC Deb 2 July 2013 c144
[60] Ibid, c148-50
[61] PBC Deb 2 July 2013 c154-7
[62] Ibid, c160
[63] Ibid, c160

> without exception. As long as they have the 10 years, they get the higher of the two numbers.[64]

Requiring 35 years rather than 30, for a full single-tier State Pension would save £0.7 billion by 2030. The cost would rise over time: in steady state, well in 2060, it would cost £2.9 billion to go back to 30 years.[65] He was concerned that a requirement to conduct a review would cost

Sheila Gilmore also asked about people with low earnings with a number of different employers who do not pay National Insurance contributions (NICs) because they earn below the Lower Earnings Limit in each job.[66] The Minister responded that an estimated 50,000 people worked in multiple jobs none of which reached the Lower Earnings Limit (LEL). One in five of them might be on credits because of claiming Universal Credit. They did not currently pay NI and might not welcome being required to do so, particularly if they had already made 35 years of contributions. They could opt to pay voluntary class 3 NICs.[67]

Clause 6 of the Bill provides for the recalculation and backdating of the transitional rate in special cases. The Minister explained that:

> If somebody has been contracted out of SERPS or the state second pension in the past but their employer pays a premium to put them back into the state second pension, we need to make sure that they do not retire before that has happened and find that we do not have a legal basis to recalculate their state pension after that has happened.[68]

Transitional entitlement based on contributions of others (clauses 7 to 12)

The Government intends that people should qualify for the single-tier on the basis of their own contributions and says that in steady state there will be "no rationale for allowing people to "inherit or derive state pension income based on the National Insurance record of their spouse or civil partner." Where both dependant (i.e. the person relying on using their spouse or civil partner's record), and contributor (who will be their spouse or civil partner) reach SPA before the implementation of the reforms, then the current rules continue to apply. In addition, there will be "transitional protection to cover a variety of circumstances where the Government believes it is right to recognise contributions made prior to the implementation of the single tier pension."[69] This is discussed in more detail in section 4.7 of Library Research Paper RP 13/37 Pensions Bill.

Part 2 of Schedule 12 provides for the restriction of the right to claim a State Pension based on the contribution record of a (former) spouse or civil partner, depending on when the dependent and contributor reach SPA in relation to the implementation of the single-tier state pension in April 2016.

---

64 Ibid, c164 and 168

65 Ibid, c166

66 Ibid c161-3; See DWP, National Insurance Credits and the single-tier, 26 June 2013, para 47-8

67 PBC Deb 2 July 2013 c169

68 Ibid, c174

69 DWP, State Pension entitlements derived from a current or former spouse's or civil partner's national insurance contributions (March 2013); DWP, The single-tier pension: a simple foundation for saving, Cm8528, January 2013, Annex 3D

Clause 7 and **Schedules 3 and 4** would provide for the inheritance of additional State Pension rights.[70]

The Work and Pensions Committee recommended that the Government should give further consideration to finding a solution for a small group of women close to SPA who would be affected by these changes:

> We believe that it should be possible to find a solution for another small group of women: those who did not build up their own NI record because they had a legitimate expectation that they would be able to rely on their husband's contributions to give them entitlement to a Basic State Pension. One option might be that women in this position who are within 15 years of State Pension Age should be able to retain this right. We recommend that the Government assesses and publishes the cost of providing this option for the relatively small number of women affected. We believe that, for those further from retirement, there is sufficient time for them to plan on the basis of the new rules.[71]

Gregg McClymont tabled an amendment that would require the Government to conduct a review to determine the costs and benefits of permitting women within 15 years of SPA to retain the right to derive State Pension entitlement on the basis of their (former) spouse's contribution record:

> In relation to women without a national insurance contribution record who relied on a husband's national insurance contributions and would under existing arrangements have accrued a benefit based on such spousal contributions, the Government shall conduct a review to determine the costs and benefits of permitting women within 15 years of state pension age as at 6 April 2016 to retain their accrued rights. Such a review shall be conducted within six months of Royal Assent of this Act and a report thereof laid before Parliament.[72]

Sheila Gilmore said that when people had made plans based on a reasonable expectation of being able to use their husband's contributions, it was not fair to remove this right from them abruptly. Some might have been eligible for NI credits but not claimed them, for example.[73] The Minister responded that:

> There is an issue about legitimate expectations, which is why the rather complex transitional procedures that we have put in place provide protection for the vast majority of people. I will reiterate the numbers we think we are talking about. We have the figures for men, which are obviously much smaller, but we think that by 2020, of all the women who become single-tier pensioners over that five-year period, roughly 5% will lose out—that is the 30,000 number—from the non-availability not just of a derived pension as a widow, but a derived pension as a married woman whose husband is still alive. All of that together is less than 5% of the people we are talking about.
>
> Of course, we could roll on every feature of the old system into the new system for another 15 years. At the same time as we are being asked to do that, we are also being asked to give clear communications. We are trying to bring about a reform that

[70] Bill 6-EN, paras 56-60
[71] Work and Pensions Committee, The Single-tier State Pension: Part 1 of the draft Pensions Bill, Fifth Report of 2012-13, HC 1000, 4 April 2013, para 155
[72] PBC Deb 2 July 2013 c175
[73] Ibid c182

> enables people to plan for their retirement, to know where they stand, to know what they will get, and there is a trade-off here.[74]

Some of those losers would be eligible for Guarantee Credit.[75] He said another review would delay implementation. Furthermore:

> It would create new cliff edges, bring in only women and not men, and greatly complicate the transition for a relatively small number of people for whom other provisions are in place – the guarantee credit, the opportunity to pay voluntary contributions and so on.[76]

The Minister went on to provide an explanation of the provisions in Schedule 3 and 4 and clause 8 (choice of lump sum or survivor's pension under section 9 in certain cases), clause 9 (survivor's pension based on inheritance of deferred old state pension) and clause 10 (inheritance of graduated retirement benefit).[77]

Transitional arrangements for married women with reduced rate elections

Clauses 11 and 12 and **Schedules 6 and** 7 would provide for the transitional protection arrangements for a married woman with a "reduced rate election" in force at the start of the final 35 tax years before she reached SPA .[78] The Minister explained:

> The married woman's stamp had its origins in the post-second world war national insurance system, whereby women could pay full national insurance and build up a full pension, but the presumption was that a married woman did not do so and that she paid a reduced rate of national insurance. That meant that she did not build up a state pension in her own right, but she did build up entitlement to a pension based on her husband's contributions when he reached state pension age, typically of a 60% pension as a married woman or of a 100% widow's pension when he died.[...]
>
> This is a very clear case of where the state entered into a contract with individuals and a deal was done. The deal was, "You put less national insurance into the system, you don't build up your own pension, but you do get something on your husband's rights." We just felt that, although in a sense the option to pay the married woman's stamp for new people ended in the late 1970s, there was one heck of a legacy of all this. Lots of people even now are coming up to pension age who, at some point, have paid the married woman's stamp.
>
> Clause 11 relates to the people who have got something in their own right; clause 12 relates to the married women who paid the married woman's stamp who have got nothing at all. What these clauses and schedules do is essentially to try to replicate what those people would have got. In a sense, it is cleaner, because if they have got nothing at all we just pay them what they would have got—the 60%, or the 100% in due course. If they have got something, we have to mesh together the something that they have got with the extra amount that we will give them, which is why we have done them separately. However, as I think the Committee would consider was proper, what we have basically said is, "If, at your state pension age, you had a live election to pay the married woman's stamp at any point in the preceding 35 years [...] you're in this concessionary basis and essentially you will get the pension you would have got when your husband reached state pension age, because you are on his record as a married

---

74 Ibid c184
75 Ibid c85
76 Ibid c187
77 Ibid c 187-191
78 Bill 6-EN, para 67-8

woman, and in due course if he predeceases you, you get the basic widow's pension that you would have got."[79]

The Government estimated that the number with a current or reduced rate election who would have got less than in the current system without these protection arrangements was about 16,000. Gregg McClymont said it made sense to proceed as the Government suggested.[80]

Shared State Pension on divorce (clauses 13 to 15)

Clauses 13 to 15 and Schedules 8 to 11 make provision relevant to pension sharing.[81] These provisions are explained in section 4.8 of Library Research Paper RP 13/37 Pensions Bill. The Minister provided a brief overview of the provisions to the Public Bill Committee.[82]

State Pension deferral (clauses 16 to 18)

People currently have the option of deferring claiming their State Pension beyond State Pension age. In return, they may be eligible to receive a higher State Pension or a lump sum.[83] Under current rules, to get extra State Pension, an individual has to defer for at least five weeks. For each five weeks of deferral, their State Pension can be increased by one per cent (10.4 per cent a year). There is also the option of a lump sum where an individual has deferred for at least a year.[84]

The Government's January 2013 White Paper explained that deferral would still be an option under the single-tier pension. However, there would no longer be the option of a lump sum and the amount of extra pension an individual could build up by deferring would change.[85]

Clauses 16 to 18 provide for arrangements to defer the payment of a State Pension under the single tier.[86]

In Public Bill Committee, the Minister explained that there was not much evidence that the rewards for deferral were an effective incentive, encouraging people to stay in work for longer. The option to draw a lump sum was being removed as a simplification measure. The increments gained by deferral would have around half the value of those gained under current rules:

> Under the provisions, when people defer their state pension, they receive a bigger pension when they draw it. We envisage that the rate of deferral will be broadly actuarially fair. At the moment, there is a financial incentive to defer that is equivalent

---

[79] Ibid c191
[80] Ibid c192
[81] Bill 6-EN, para 71-75
[82] PBC Deb 2 July 2013 c193-4
[83] The detailed rules are in Schedule 5 of the *Social Security (Contributions and Benefits) Act 1992*; Pension Service, *State Pension deferral – your guide* (April 2012); DWP, Decision Makers' Guide, para 75366 and para 75499; The policy background is discussed in more detail in Library Note SN 2868 *Deferred retirement increments* (October 2010).
[84] The detailed rules are in Schedule 5 of the *Social Security (Contributions and Benefits) Act 1992*; Pension Service, *State Pension deferral – your guide* (April 2012); DWP, Decision Makers' Guide, para 75366 and para 75499; The policy background is discussed in more detail in Library Note SN 2868 *Deferred retirement increments* (October 2010).
[85] DWP, The single-tier pension: a simple foundation for saving, January 2013 (Cm 8528), para 111-2
[86] Bill 6-EN

> to about 10% on the pension year of deferral, but we believe the right figure would be in the order of 5% although a lot depends on changes in longevity and so on.[87]

Clause 18 dealt with "a rather obscure feature of the current system, whereby the increments paid for deferred pensions overseas are uprated but the main pension is not; we are taking out that anomaly."[88]

Gregg McClymont supported the move to end the possibility of a lump sum. However, he moved an amendment to ensure that the regulations setting the rate of deferral increments would be subject to the affirmative procedure in Parliament (which means they would have to be debated and approved by both Houses before becoming law).[89] He said it was important that the Minister came to the House to account for the decision on the amount that would be received as a result of deferral.[90] Steve Webb responded that he would be happy to publish the advice from the Government Actuary on the level of the increment had been set:

> We will ask the Government Actuary at the relevant time how much the increment should be if we want to be actuarially neutral. Our policy is to set the regulations on that basis.[...] the fact that something is subject to a negative resolution does not prevent us from having a debate in Committee about it. Hon Members can pray against it, we can have a debate on it and obviously the House can express a view [...][91]

He expected to publish further details around the time the Bill received Royal Assent in Easter 2014.[92] The Government estimated that continuing with the current system of increments – that is for 10% a year rather than 5% - would cost an additional £200 million a year in 2020 and £300 million in 2030.[93]

Sheila Gilmore asked about awareness of the deferral option. Steve Webb responded that "one of our dilemmas with regard to deferral is that we cannot tell that someone has done it actively."[94]

Mark Reckless suggested it was an issue on which people might become better informed in advance of the introduction of the reforms in April 2016:

> The option is not particularly well know, and a lot of people might not have made rational decisions about it, but I wonder whether in a world where more people are working longer, it might become something that people are better advised and informed on and whether, particularly in the three years to April 2016, we might see significantly more people taking that option, not least because they would entrench the right to continue deferring past April 2016.[95]

The Minister confirmed that people who reached State Pension age under the current system (i.e. before 6 April 2016) would be able to defer on current terms even if they deferred past 2016. If someone was a "single-tier pensioner", they would get the new accrual rate.[96]

---

[87] PBC Deb 4 July 2013 c200
[88] Ibid c201
[89] For more on the affirmative procedure for statutory instruments, see House of Commons Information Office Factsheet L7 Statutory Instruments
[90] PBC Deb 4 July 2013 c202
[91] Ibid c204
[92] Ibid, c208
[93] Ibid c205 and 209
[94] Ibid c205
[95] Ibid c207
[96] Ibid c208

Gregg McClymont indicated an intention to push the amendment to a vote at a later stage.[97]

Prisoners (clause 19)

Section 113 of the *Social Security Contributions and Benefits Act 1992* provides that except where regulations otherwise provide, a person shall be disqualified from receiving benefits under parts 2 to 5 of that Act (which includes the state pension) for any period during which they are "undergoing imprisonment or detention in legal custody." Regulations provide that prisoners on remand are only disqualified if they go on to receive a sentence of imprisonment or detention.[98] **Clauses 19** of the Bill provides for the policy to continue. The Explanatory Notes say:

> 84. For prisoners, regulations may provide that such a person is not to be paid a state pension whilst they are imprisoned, detained in legal custody or unlawfully at large. This is the same as under the current retirement pension scheme.[99]

Gregg McClymont thought the clause would have widespread support in the Committee and outside it.[100]

Overseas residents (clause 20)

The UK State Pension is payable overseas, but is only uprated annually to UK pensioners living in European Economic Area (EEA) countries[101] or in countries where there is a relevant reciprocal agreement.[102] The policy of not awarding increases has been followed by successive governments.[103] The main reason for not uprating the State Pension in these countries is cost and the desire to focus constrained resources on pensioners living in the UK.[104]

Clause 20 provides the regulation-making power for the current policy to continue. The Explanatory Notes say:

> 85. For overseas residents, regulations may provide that such a person is not entitled to uprating. This will enable similar provision to be made as under the current retirement pension scheme. Regulations under this clause will be made taking into account provision under relevant treaties, such as those in respect of the European Union, and bilateral treaties providing for reciprocity in social security matters which cover uprating.[105]

The Work and Pensions Select Committee described the policy of uprating in some countries, but not others, as an "anomaly", which the introduction of a new State Pension provided an opportunity to address.[106]

---

97 Ibid c209

98 *Social Security (General Benefit) Regulations 1982*, SI 1982/1408, reg 2(2) and (2)(8)(c),

99 Bill 6-EN, para 83

100 PBC Deb 4 July 2013 c210

101 Article 11 of Council Regulation (EEC) no 1408/71. EEA countries are. European Union members together with Norway, Iceland and Liechtenstein

102 HC Deb, 16 Oct 2008, c1374; The background to this policy is covered in more detail in Library Note SN 1457 Frozen overseas pensions.

103 See, for example, HL Deb 26 April 1989 c1352; HC Deb 6 July 1994 c 432

104 See, for example, HC Deb 16 May 2000 c 118W [Jeff Rooker] ; HC Deb, 2 December 2010, c953W [Steve Webb]

105 Bill 6-EN, para 83

106 Work and Pensions Committee, The Single-tier State Pension: Part 1 of the draft Pensions Bill, Fifth Report of 2012-13, HC 1000, 4 April 2013, para 138

At Public Bill Committee stage, Gregg McClymont moved an amendment to require the Government to conduct a review of overseas residents' uprating entitlement:

> A review of overseas residents' uprating entitlement shall be conducted on a cross-departmental basis within six months of Royal Assent to this Act. It shall consider in particular whether the savings attributable to non-entitlement could be more effectively made in other areas of health and social care, and whether there are potential economic benefits to uprating the pensions entitlements of overseas residents in line with UK-resident pensioner's entitlements. The review shall report to the Secretary of State for Work and Pensions, and a copy of the report shall be laid before Parliament.[107]

He explained that the Opposition was "not hostile to the Government's position of not uprating overseas residents' pension entitlement in countries where there are no reciprocal agreements", recognising that the cost of change was an important factor. However, it thought there should be a cross-departmental study "on the implications of this policy for pensioners deciding to live abroad."[108]

Responding, Steve Webb explained that most UK pensioners overseas lived in either Canada or Australia. Uprating the State Pension in those countries would be at a cost the British taxpayer but would not necessarily benefit British citizens living in those countries:

> I understand that just short of three in four of the people we are talking about are in Canada or Australia. It was suggested that the Canadian and Australian Governments would like us to increase pensions in such cases, and indeed they would. That is because they have means-tested state pension systems. If we were to increase state pensions in Canada and Australia - for nearly three quarters of the people we are talking about - that would be a saving to the Canadian and Australian Exchequers at the cost of the British taxpayer, not necessarily to the benefit of the British citizen living abroad. There would be British citizens whose incomes would be above the level at which they qualify for the means-tested pension in those countries, but they are not the folk whom people are most concerned about - the folk who have nothing else to live on.[109]

He added that the proportion of UK pensioners who moved as pensioners was 2%. The remainder all moved at a working age:

> A significant number of British pensioners overseas went to Australia to work when they were in their 30s or 40s, for example, and have lived there for a significant part of their lives. They will have been building up pension rights under the Australian system; they will have only part of their income based on the British system, and only that part will not be uprated.[110]

He said the Bill proposed exact continuity with the existing regime and he did not believe that the time and cost of a review would actually achieve anything:

> Our position is clear and at this point clarity is what people need. I recognise the concerns of the affected groups, but at a cost of £700 million, with a possible knock-on

[107] PBC Deb 4 July 2013 c210
[108] Ibid, c214
[109] PBC Deb 4 July 2013 c224
[110] Ibid c225

> into billions if backdating was pursued, I do not believe that it is a priority for the Government.[111]

The amendment was withdrawn.[112]

Removal of Savings Credit (clause 23)

The White Paper announced that other "outdated features" of the current system would be abolished for future pensioners with the introduction of the single-tier. These included the Category D State Pension and the Age Addition.[113]

Clause 23 and **Schedule 12** provide for a number of amendments to other legislation relating to the introduction of the new state pension. Part 2 of Schedule 12 limits the current scheme to those reaching SPA before 6 April 2016 and removes several aspects of the current scheme for those reaching SPA after that date, including the Category C pension, Category D pension and the 25 pence age addition for people aged 80 and over.[114] The Christmas Bonus is to continue for recipients of both current and new state pension schemes.[115]

Debate at Public Bill Committee stage focussed on the removal of Savings Credit for future pensions. **Part 3 of Schedule 12** provides for Savings Credit only to be payable (from the Savings Credit qualifying age) to those who have reached SPA before 6 April 2016. An individual could still qualify if they are a member of a couple and the other partner qualifies (mixed age couples). A power is given to the Secretary of State to specify the circumstances in which entitlement is restricted for these cases.[116]

In its report on the draft Bill, the Work and Pensions Committee had asked the Government to provide further detail of the planned transitional arrangements:

> 38. Pensioners on low incomes who are entitled to Pension Credit are often also entitled to other means-tested support, particularly Housing Benefit and Council Tax support, as well as other passported benefits. The Government has indicated that there will be transitional protection for people who would have been entitled to both Savings Credit and Housing Benefit under the current system. However, the details of how this will work in practice are not clear. We recommend that the Government develops and publishes a clear explanation of how means-tested support, including passported benefits, will operate under the Single-tier, and of the transitional protection that will be put in place, in time for consideration of the final legislative proposals later this year.[117]

The Government said more detail would be made public during the passage of the Bill. It was considering the position of mixed age couples, with the intention that transitional protection would apply to those already in receipt of Savings Credit, provided entitlement remained. It was also considering the question of housing support for pensioners following the

---

[111] Ibid c226
[112] Ibid c228
[113] DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013, page 98
[114] Bill 6-EN para 90. The abolition of the right to derive a state pension based on the contributions of a (former) spouse or civil partner with some transitional protection is discussed in section **Error! Reference source ot found.**
[115] DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013, page 91, para 10. See Christmas Bonus on Gov.UK and in Library Note SN 6354 Pensioner benefits
[116] Bill 6-EN, para 91-2
[117] Work and Pensions Committee, The Single-tier State Pension: Part 1 of the draft Pensions Bill, Fifth Report of 2012-13, HC 1000, 4 April 2013

introduction of Universal Credit. The transitional protection for those entitled to both Savings Credit and Housing Benefit would be considered in that context.[118] Age UK has expressed concern that "as things stand once the transitional arrangements end some people could lose out by quite a significant sum."[119]

At Public Bill Committee stage, Sheila Gilmore referred to concerns from pensioner representative groups, such as Age UK about the impact on pensioners of the abolition of Savings Credit. She also asked about the transitional arrangements for Housing Benefit.[120]

Responding, Steve Webb explained that Savings Credit was not effective as an incentive to save:

> Because the savings credit is so techie, people do not take it up in the numbers they should. As I think has been acknowledged, the take-up rate for people who are entitled to just the savings credit is between 43% and 48%.[...] The idea was that the savings credit would be a savings incentive, but most people do not know that it exists and only have a 50:50 chance of getting it if they do. It is a post hoc effort to say, "We have done wrong by you; we will try to put it right." It certainly is not a savings incentive. Given that the single tier tackles that head on by paying a single, simple, decent state pension above the level of the basic means test, the narrative rationale for savings credit goes out the window.[121]

The median notional reduction in net income would be about £8 a week for the Savings Credit losers. The transitional arrangements for Housing Benefit were still being worked out:

> As for the transitional issue, had we simply abolished the savings credit and made the knock-on change to the housing benefit system, we would have had far more low-income losers. The housing benefit system has what is technically known as a "bit" in it equivalent to the maximum savings credit. The idea was that, if people received the maximum savings credit, they did not want the housing benefit system coming along and clawing back everything that had been given to them through the savings credit. There is an element in the housing benefit system for the maximum savings credit. We are retaining that element, even though we are abolishing the savings credit, so that we do not create additional housing benefit losers. That is how we plan to approach the issue.
>
> The revised system of support of housing benefit for pensioners needs to be worked through in a universal credit world, where housing benefit for non-pensioners is part of universal credit. We therefore need to think carefully about the housing benefit world for pensioners, which is why we have not set it out in detail. That remains a work in progress. However, we have said that, for five years after implementation of the single tier, we will retain the housing benefit protection, and that will give plenty of time to draw up a new system.[122]

Abolition of contracting-out (clause 24)

Since its introduction in 1978, it has been possible to contract-out of the additional State Pension into an occupational pension scheme that meets certain requirements. In return, the employee and their employer pay reduced National Insurance Contributions (NICs), through

[118] DWP, Government Response to the Fifth Report of the House of Commons Work and Pensions Select Committee, Session 2012-13, into Part 1 of the draft Pensions Bill, Cm 8620, May 2013, p7
[119] Age UK, Second reading briefing – Pensions Bill, June 2013
[120] PBC Deb 4 July 2013 c231-2
[121] Ibid c233
[122] Ibid c235-6

what is known as the "contracted-out rebate". With the introduction of the single-tier pension, the additional State Pension would close and, by extension, the option to contract out of it. For employees who are members of contracted-out schemes, the end of contracting-out will mean their NICs will increase to the standard rate. However, contributions after implementation would count towards the single tier pension in the same way as those paid by other employees.[123] Employers who sponsor contracted-out schemes will also face an increase in their NICs.[124]

Clause 24 provides for the ending of the option for sponsoring employers of Defined Benefit (salary-related) pensions to contract their employees out of the additional State Pension. **Schedules 13** and **14** are intended to serve two main purposes – to provide for a statutory override for private sector employers and to make sure contracted-out rights accrued before the abolition of contracting-out are fully protected.[125]

Gregg McClymont moved an amendment that would provide for a change to scheme rules only to be made with the consent of employee trustees.[126] Responding, Steve Webb explained why the Government believed the statutory over-ride was needed:

> Among other things, the Bill allows the employers to change their schemes so that they recoup exactly that money. For example, if they have a scheme that accrues benefits at a 60th of a final salary for each year and they lose the rebates, they might change that 60th to a 70th, or whatever the actuary says is the right number. The provision is not intended to allow firms to go further. To reassure the hon. Member for Edinburgh East, I draw attention to the fact that schedule 14 specifically precludes the use of the power to go beyond recouping the lost rebate. The power can be used only for the lost rebate.
>
> We have built in flexibility so that the power can be used more than once. A firm could, for example, not go the whole hog in the first instance if it did not consider that it needed to, but with the confidence that, if it did need to, it could come back for the balance. We considered making firms take such action all in one go, but the worry was about firms that would take the whole lot out of the scheme, although some might not choose to do so.[127]

Steve Webb responded that the Government did not think it would be fair on any employees who were not members of a defined benefit pension scheme if employers recovered the money lost when contracted-out rebates were abolished by "lower pay rises and pay cuts".[128]

The Government had consulted on whether to allow a statutory override to affect "protected persons" in privatised industries, but had not yet decided how to proceed:

> The hon. Gentleman raised the issue of protected persons. We have consulted on that issue, and we are still considering our response. There might be a set of schemes to which we do not apply the override. For example, if someone was in a privatised firm where there is statute that protects their pensions, it would go against that potentially if we were to say that the employer in that industry can in any case change the rules of the scheme.

[123] DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013, Chapter 3, para 72
[124] DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013, Chapter 3, para 72
[125] Bill 6-EN, para 99-100
[126] PBC Deb, 4 July 2013, c237
[127] Ibid, d244
[128] Ibid, c245

> We have to weigh up the rights of the members of the scheme—as the hon. Gentleman, the GMB and the TUC said—against the position of the employers. Clearly, the employers have got protected and non-protected workers. Would they recover the rebate wholly from the non-protected workers? Does that create even more of a two-tier work force and industrial relations problems? If they do not do that, and pass it on to the consumer, does that mean higher rail fares, energy prices or whatever it is? It is a complex issue. We will publish our conclusions later in the summer, but we have not reached any yet. We recognise the arguments on both sides on that point.[129]

Regarding the Government's intentions for the extra revenue that would result from the abolition of contracted-out NI rebates, he said:

> The Chancellor has made it clear that part of the rebate money will go to do two things that I think we all agree are worth doing. One is to enable from April 2014 employers to offset the first £2,000 against their national insurance bill. That will enable, for example, a small firm potentially to pay no employer national insurance. Part of the rebate money will do that. Part of it will contribute towards what are called the Dilnot social care reforms. The cap on social care and changes to inheritance tax are part of that mix as well.
>
> That does still leave a significant multi-billion pound unallocated amount from the rebate. Crudely, if one thinks of that unallocated amount as being broadly the employer public sector rebate, that is the figure to which my hon. Friend referred. That is a transfer within the public sector. That is money that the Exchequer will no longer have to pay to local government employers, armed forces employers, schools, hospitals and so on. That money will come in or not go out from 2016-17 onwards.
>
> The House will be aware that the comprehensive spending review just announced ceases at the end of 2015-16. It is, therefore, entirely a matter for the Chancellor of the Exchequer of the day to decide what to do with that money. The Chancellor, hypothetically, could decide to allocate all of that money back to public sector employers from whence it has come. If he or she were to decide to do that at that point the employers, about whom my hon. Friend is concerned, would be more or less in exactly the same position as they were before. They would be reimbursed for the loss of the rebates.[130]

The Minister also provided an explanation of some of the details in Schedules 13 and 14.[131]

4.2 Part 2 – State Pension age (SPA)

Measures to increase the SPA have been introduced in stages. From the 1940s until April 2010, the State Pension age (SPA) was 60 for women and 65 for men. Provision to equalise the SPA for men and women by increasing the SPA for women from 60 to 65 in stages between April 2010 and 2020 was included in the *Pensions Act 1995.* The Labour Government made provision in the *Pensions Act 2007* to increase the equalised SPA to 66 over two years starting from April 2024, to 67 over two years starting in April 2034, and to 68 over two years starting in April 2044. The current Government legislated in the *Pensions Act 2011* to bring forward the increase to 66 to October 2020. To achieve this, the Act brought forward the increase in women's SPA, so that it reaches 65 in November 2018 (rather than

---

[129] Ibid, c246; DWP, Abolition of contracting out – consultation on a statutory override for Protected Persons Regulations, January 2013

[130] Ibid, c247

[131] Ibid, c250-2

April 2020).[132] In its 2011 Autumn Statement, the Government said it would bring forward the increase in the State Pension age to 67 to between April 2026 and April 2028.[133] For the future, the Government intends to carry out a review of the SPA every five years, with the first review in the next Parliament.[134]

Clause 25 of the Bill provides for the increase in the SPA from 66 to 67 to be brought forward to between 6 April 2026 and 5 March 2028.[135]

Presenting the clause to the Public Bill Committee, the Minister said that the increase to 67 by 2028 placed the UK in line with many other countries. Regarding the argument that an increase in the State Pension age (SPA) had a disproportionate impact on lower socio-economic groups, he said that although there were substantial and important differences in life expectancy by socio-economic group, the SPA was not the mechanism for addressing this:

> [...] there is a set of people who do not make it, in terms of active labour market participation, to current state pension age. There always have been. Our view is that those issues need tackling at source; to some extent they have been.[136]

Gregg McClymont agreed the issue should be tackled at source.[137]

Clause 26 makes provision for a periodic review of the SPA in the light of changes in life expectancy and other factors. The first report must be published before 7 May 2017. Future reports must be published within six years of previous reports (in line with the Government's intention that this should happen every five years, while allowing some flexibility). To inform the review, the Secretary of State must commission a report from the Government Actuary's Department (GAD) to produce a report and appoint a person(s) to prepare a report on other factors relevant to the review. Any reports produced would be laid before Parliament.[138] At Public Bill Committee stage, Pensions Minister, Steve Webb, explained in more detail how this would work:

> The Secretary of State will ask the Government Actuary to produce a report on the state pension age, which will be required to maintain the proportion of adult life in retirement below a set threshold. That threshold will be set by a future Government, but we envisage that that will be up to about a third.
>
> That report will be published and a review, led by an independent person, will comment on that and report to the Secretary of State. The Secretary of State will then make a decision, which will form the basis of primary legislation. Those reviews will have to take place at least every six years.[139]

At Public Bill Committee stage, Shadow Pensions Minister, Gregg McClymont said the Opposition did not intend to "stand in the way of the proposals in the Bill to increase the State Pension age". To help maintain cross-party consensus on the issue, he moved an amendment to ensure that, rather than being required to appoint a person or persons to

---

132 For more information, see Library Notes SN 6546 State Pension age – 2012 onwards and SN 2234 State Pension age – background.
133 HM Treasury, Autumn Statement 2011, Cm 8231, November 2011, para 1.53
134 DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013, Executive Summary
135 Section 13
136 PBC Deb 4 July 2013 c253
137 Ibid, c253-4
138 Bill 6-EN, para 106-8
139 PBC Deb 4 July 2013 c263

prepare a report, the Secretary of State should be required to appoint a panel including representatives from any Opposition parties and trade unions. He was also concerned that five-yearly reviews might be too frequent, as people would fear that SPA would increase each time. [140] The Minister was concerned that this might be tokenistic and give rise to arguments about which groups should be represented on the panel. He envisaged the review being led by an individual who commanded respect across the political spectrum and who would take account of a range of views, along the lines of the Hutton review of public service pensions. He added the SPA could only be increased by primary legislation.[141] Gregg McClymont argued that a much more reasonable way to approach such an important issue [was] to have in the room representatives of the various parts of society that were affected by the issue. His amendments were defeated on division by seven votes to four.[142]

Sheila Gilmore asked whether the legislation allowed for some flexibility in retirement ages. Steve Webb responded that there was already flexibility to defer claiming. He did not think there should be flexibility to claim earlier:

> If we allowed people to draw the single-tier pension early at a reduced rate, for the reasons she gives, that might fatally undermine the whole point of the exercise, which is to set the rate of the single-tier pension above that of the basic means-tested pension. [...] The evidence from around the world is that where people are allowed to take their pension early, that rapidly becomes the norm. For example, in America, people can draw a reduced state pension from 62, and the average of retirement age in America is 62. That would run completely counter to what we are trying to do, which is to encourage, enable and support people to work for longer—that is very often in their interests—and to enable them to enjoy a prosperous retirement that does not put an excessive cost on the national insurance system.[143]

4.3 Part 3 – Bereavement support payment

Part 3 of the Bill provides the legislative framework for a new benefit – Bereavement Support Payment – which is to replace the existing system of bereavement benefits for new claims starting from 2016-17. The proposals follow a public consultation on reform of bereavement benefits launched in December 2011.

Bereavement Support Payment (BSP) entails a shift in the focus of bereavement benefits, to a more uniform structure providing help with the more immediate costs caused by the death of a spouse or civil partner. Rates and payment periods are to be set out in regulations, but it is envisaged that support will be provided as a lump sum followed by 12 monthly instalments, with higher amounts for those with dependent children. The new benefit also has simplified National Insurance contribution conditions, has no minimum age rule, and does not cease if the claimant remarries or starts cohabiting with another person.

Representatives from Cruse Bereavement Care and the Childhood Bereavement Network gave evidence to the Public Bill Committee at its first sitting on 25 June.[144] The Childhood

---

[140] PBC Deb 4 July 2013 c255
[141] Ibid, c260; See also Independent Public Service Pensions Commission website
[142] PBC Deb 4 July 2013 c262
[143] Ibid, c263-4
[144] PBC Deb 25 June 2013 cc25-32

Bereavement Network also submitted written evidence to the Committee.[145] The provisions in Part 3 of the Bill were considered by the Committee at its eighth sitting on 4 July.[146]

The witnesses from Cruse Bereavement Care and the Childhood Bereavement Network, while welcoming some aspects of the new benefit including increased lump sums, simpler and more easy to understand rules, and giving help regardless of age, had serious concerns about the impact of the new Bereavement Support Payment on families with children, and in particular those with younger children. They welcomed the greater recognition of the needs with those without children, but were concerned that this was at the expense of those with children, who would lose support after 12 months but who often faced significant ongoing costs as a result of bereavement. They also had concerns about subjecting widowed parents to conditionality requirements after six months, the exclusion of unmarried partners from support, and the lack of clarity on the tax status of BSP.

During detailed consideration of Part 3 of the Bill on 4 July, a minor technical amendment was agreed to clarify that the Secretary of State must make regulations setting out the detailed rules for the Bereavement Support Payment.[147] Further Government amendments were tabled to ensure that only those "ordinarily resident" in Great Britain or in a "specified territory" when their spouse/civil partner died would be able to claim BSP. The Minister, Steve Webb, explained that relaxation National Insurance contribution conditions meant that a person could qualify for BSP if their spouse had paid only 25 weeks' NI in the UK. He added:

> A problem with that, which we identified after we printed the Bill—as the Committee might work out, that is why we have tabled the amendment—is that that would mean that bereaved people around the world, who, I hesitate to say, even if they had not seen the white cliffs of Dover, had certainly spent six months in the country paying national insurance, would qualify for a bereavement lump sum. Given that the amounts of money are substantial, we did not think it the priority for the British taxpayer to pay bereavement support payments to bereaved people around the world—although, of course, we sympathise with them—who have simply had a passing acquaintance with the country.[148]

The "specified territories" are to be set out in regulations, but the intention is to "prevent persons living in a non-EEA or non-reciprocal agreement country, without a close connection to Great Britain, coming to the country to claim the benefit."[149]

The Government amendments were agreed without a vote.

No non-Government amendments were tabled. The Opposition spokesman, Gregg McClymont, said that Cruse Bereavement Care and the Childhood Bereavement Network had been keen to get probing amendments tabled, but added that "we did not manage to get the amendments down in time."[150]

In the debate on whether **clause 27** should stand part of the Bill, the concerns voiced by Cruse Bereavement Care and the Childhood Bereavement Network were raised, and in

145 *Written evidence from the Childhood Bereavement Network*, PB 44, published 10 July 2013
146 PBC Deb 4 July 2013 cc264-276
147 PBC Deb 4 July 2013 c266
148 PBC Deb 4 July 2013 c265
149 PBC Deb 4 July 2013 c266
150 PBC Deb 4 July 2013 c273

particular their suggestion that more than 90% of families with dependent children could lose out under the proposals. Steve Webb disputed this figure, explaining:

> The 90% figure is based on a misunderstanding. It was based on the assumption that the only basis on which people flow off benefits for widowed parents is when the kids turn 18. Actually, people flow off widowed parent's allowance when they remarry or when they reach state pension age, for example. In fact, the typical length of time that people spend on widowed parent's allowance is currently in the order of four years. Although there may be extreme cases of people who are on it for 18 years, or whatever, they are very much the exception. It is more normal to think of people being on such benefits for a median period in the order of four years.[151]

On the actual impact in terms of winners and losers, the Minister said:

> For the reform as a whole, we think it is roughly 50:50. With the figures that we have used, we think that 52% would get more and 48% would get less. There is a shift in the balance, however, because the reform spends extra money on childless bereaved people, who currently would not get any benefit at all in many cases. We estimate that around three quarters of bereaved families with children would get less and a quarter would get more. Within that, however, it is loaded towards those who are out of work, so the heavier losers are those who are in work.[152]

He emphasised however it would be at the discretion of a future Government to set the level and duration of payments, and the balance between lump sums and ongoing payments. A future Government could, for example, prescribe a different payment period for families with children, or use some or all of the savings expected to accrue from the reforms in the longer run to make payments to those with children over a longer period.[153] Paying benefits over a longer period might however make it more difficult to make the case to the Treasury that the Bereavement Support Payment should be tax free, and to justify disregarding BSP when calculating entitlement to Universal Credit.[154]

4.4 Part 4 – Private pensions

Part 4 of the Bill contains a number of different changes affecting private pensions. The context for some of the changes is the introduction of the workplace pension reforms, which started to be introduced from October 2012. Under these reforms, employers are required to automatically enrol workers into, and make minimum contributions to, a workplace pension savings scheme.[155] DWP estimates that the reforms will result in between six and nine million workers saving into a pension for the first time, or saving more into their existing scheme.[156] This is discussed in more detail in Library Standard Note SN 6417 Pensions: automatic enrolment 2010 onwards.

Automatic transfer of pension benefits

The Government is concerned that the introduction of auto-enrolment, against the backdrop of an increasingly mobile labour market, could result in a significant increase in the number

---

151 PBC Deb 4 July 2013 cc273-274
152 PBC Deb 4 July 2013 c274
153 PBC Deb 4 July 2013 cc266-267; cc274-275
154 PBC Deb 4 July 2013 c267
155 For more detail, see Library Standard Note SN 6417 Pensions: automatic enrolment – 2010 onwards
156 DWP, Supporting automatic enrolment: A call for evidence on the impact of the annual contribution limit and the restrictions on transfers on the National Employment Savings Trust, November 2012, Executive Summary

of small, dormant pension pots, potentially leading to poor outcomes for individuals and the pensions industry.[157]

In July 2011, DWP published a consultation document setting out three broad approaches to addressing the problem: relatively minor changes to the current voluntary transfer system; automatic consolidation of small pensions in an aggregator scheme; and pensions automatically moving with people from job to job.[158] In July 2012, it announced that it had decided to create a system in which small pots followed people through employment (referred to as 'pot follows member').[159] A further paper published in April 2013 set out in more detail how the delivery model might work.[160] In its response to the consultation, published in July 2012, the Government said it intended to proceed with the 'pot follows member' approach and would bring forward legislation to allow this at the earlier opportunity. The Minister acknowledged that there were important issues to be addressed in deciding how the system would work:

> I have heard respondents' views that we should not run before we can walk. We would therefore start with small pots that are created through automatic enrolment. I have also heard the concerns about consumer detriment, so I want to understand the issues better before setting a pot size limit for automatic transfers. We also need to work with the pensions industry to understand the role of IT in any solution.[161]

Clause 29 introduces **Schedule 16** which contains a duty for the Secretary of State to provide for a system of automatic transfers of a person's accrued workplace pension rights in one scheme, to another scheme of which that person is an active member. The Government has produced an Impact Assessment for these provisions.[162]

At Public Bill Committee stage, Shadow Pensions Minister, Gregg McClymont moved an amendment to delete the phrase 'active member' from clause 29. The intention was to enable automatic transfer into aggregators without the need for further primary legislation. He argued that the problem with the 'pot follows member' approach proposed by the Government was that "a saver's pot automatically moves to the new employer's scheme, regardless of how good it is."[163] He was also concerned that pots with a value over £10,000 and those accrued before the Bill received Royal Assent would remain stranded.[164] Furthermore, there would not be a level playing field for pension providers as new entrants to the market would have most of the stranded pots to which the policy would apply.[165] He argued that his preferred 'aggregator' model would help develop scale in the industry as pots were consolidated:

> In the Opposition's view, it would be better for automatic transfers to default into a limited number of schemes that met conditions that required them to deliver on public interest objectives, including governance, administrations and cost.[...] Aggregators will

[157] DWP, Meeting future workplace pension challenges: improving transfers and dealing with small pension pots, Cm 8184, December 2011

[158] Ibid

[159] DWP, Government response to the consultation – Improving transfers and dealing with small pension pots, CM 8402, July 2012

[160] DWP, Automatic transfers: consolidating pension savings, Cm 8605, April 2013

[161] DWP, Government response to the consultation. Improving transfers and dealing with small pension pots, July 2012, Cm 8402, Executive Summary

[162] Small Pots and Automatic Transfers Impact Assessment,(IA No: DWP0030), 21 May 2013

[163] HC Deb 9 July 2013 c288-9

[164] Ibid, c292-3

[165] Ibid, c297

> quickly acquire scale, with the ability to offer low costs and charges. They will support good governance at lost cost.[166]

Pensions Minister, Steve Webb, explained why he did not think having a small number of aggregators was in the interests of other providers:

> We think that by the time we get to 2050, or whenever it is that this has been up and running for a generation, the amount of money in those dormant pension pots will be of the order of £0.75 trillion. [...]My worry is that, if we have a system whereby all of that ends up in the hands of a relatively small number of aggregators [...] that will not serve the interests of all other providers.[167]

From the saver's point of view, he argued that the aggregator model could end up with more fragmentation and less engagement than would be the case with 'pot follows member':

> [...] when you leave a firm, your pension pot goes somewhere else, to a provider with whom you have no relationship and who possibly you did not choose. You then have a pension with your current provider and probably have other legacy pots too [...] You then end up with more fragmentation than if the money goes with you. You also end up with less engagement.[168]

A further disadvantage was that the limit on the size of pot to which the policy applied would need to be lower than the £10,000 proposed for pot follow member. This was in order to avoid "a massive concentration on a single aggregator." Allowing the whole legacy of stranded pensions to be transferred to a small number of aggregators could create significant disruption in the industry.[169] He said the Government's aim was to get to a situation where people moved from one good quality scheme to another. There was provision in the legislation to review the pots size limit and the application to existing schemes:

> We are trying to get to a situation in which people are automatically enrolled into good-quality pension schemes; in which, when they change jobs, they move from a good-quality pension scheme to another good-quality pension scheme; in which, by default, the money goes with them; in which they accumulate what I have called a big fat pot; in which that big fat pot provides good value for money when they turn it into an annuity; and in which we end the position whereby people have fragmented pots, are not able to buy good-value annuities and lose pensions.[...]
>
> On the pot size limit, £10,000 gets us going, but £10,000 need not be the end of the story. We have the power to review that limit, and I would have no problem with it being raised in due course. Clearly, however, we want to get things going.
>
> The hon. Gentleman suggested that we cannot do anything about pots created before Royal Assent, but that is not true. Paragraph 1(4)(e) of schedule 16 allows us to prescribe a date from which rights accrue, and that means that we can bring in older pots. Again, we are trying to walk before we run—we are trying to get a system going. Even at £10,000, the steady state might be about a million transfers a year—if we did them all instantaneously—so we should have a sense of scale.[170]

---

[166] Ibid, c300
[167] PBC Deb 9 July 2013 c314
[168] Ibid, c316
[169] Ibid, c318
[170] Ibid, c323

The regulations that followed from "pot follows member" would be subject to considerable Parliamentary scrutiny because the full details were not in the Bill.[171] The Government had published a consultation document on "Quality standards in workplace defined contribution schemes" and would publish a similar document when the Office of Fair Trading had finished its work.[172]

Gregg McClymont moved a further amendment to require the Secretary of State to review the effect of the section and any regulations made under it within three years of Royal Assent.[173] The Minister thought this was too early:

> Assuming, all being well, that we get Royal Assent in early 2014, he wants a review in 2017. Given that we legislate in 2014, and we then produce and consult on regulations, we would complete that process in 2015. We would then set up some sort of infrastructure to do this, so we could easily be talking 2016 before we even start doing it. The suggestion in new clause 10 that we then have a review within about a year of starting seems extraordinary.[174]

Gregg McClymont's amendment was defeated on division by nine votes to four.[175]

Mr McClymont then moved an amendment designed to ensure that quality requirements would apply to cash, as well as assets, when a pot was transferred.[176] The Minister responded that standards would "apply to all automatic transfer schemes, regardless of the type of assets that may be transferred." He agreed that "automatic transfers should be between schemes of sufficient quality".[177] Mr McClymont explained that he intended to push the amendment to a vote:

> We all want to see a pensions market that delivers for savers; that is the goal we are all trying to get to. We think that toughening up the Bill will help the Minister to achieve that [...]

The amendment was defeated on division by nine votes to four. [178]

Gregg McClymont moved an amendment intended to apply the automatic transfer mechanism to existing pension pots.[179] The Minister explained that he wanted to implement it on a more limited basis, at least in the first instance:

> Over time, once the infrastructure is in place and we are confident that we have dealt with things such as pension liberation fraud, transfers and identity—once the infrastructure is in place to deal with those sorts of things quickly, cleanly and cheaply—there might be huge potential for expanding the scope of all that. We might do so through raising the pot size limit or by bringing the date back in time; indeed there might in effect not be a date. The basic idea is that we start with something

[171] Ibid, c327
[172] Office of Fair Trading – Defined contribution workplace pension study, January to September 2013
[173] PBC Deb 9 July 2013 c303
[174] PBC Deb 9 July 2013 c320
[175] Ibid, c329
[176] Ibid, c329-30
[177] Ibid, c331
[178] Ibid, c335
[179] Ibid, c338

> manageable. Even with our pot size limit and date proposed, we could be talking about 1 million dormant pots a year if we are not careful.[180]

A further problem with applying it to existing pots was that many schemes had "lousy record keeping". The Pensions Regulator was working to drive up standards but there was a long way to go to ensure that pension schemes had high-quality data. Mr McClymont's amendment was defeated on division by five votes to nine. [181]

The Minister explained how the provisions under clause 29 and Schedule 16 might work. One option was to have a 'central database model':

> Under the powers in schedule 16, the scheme in which money has been left behind would have a duty to notify the central database that there was a dormant pot. So there would be a dormant pot alert. That is then stored on the central database. Then the new scheme that has auto-enrolled the employee checks the central database to see whether the new scheme member has any dormant pots. It finds one, contacts scheme A and pulls the money across. [...] One can see the attractions of that kind of model. It could be a nucleus for a broader pensions database where perhaps information about all an employee's pension schemes were held even if they did not end up physically consolidated.[182]

An alternative would be a paper-based approach:

> We refer to it as a pension information transfer document, or a pensions P45. The basic idea would be that, when someone leaves a firm, the reference number of the scheme that they have come from is on the P45 or similar. When they are auto-enrolled on a new scheme and it asks to see their pensions P45, it would have the reference number of the scheme they came from. The new scheme could then simply directly contact the old scheme and ask if there was a dormant pot. The old scheme would say yes and send the money across. At one level, that is attractive, because it avoids the need for a big database and all the rest. The downside is that we all lose bits of paper [...][183]

It was possible that pot would not immediately follow member:

> To be clear, one of the models we are looking at would be that pots would not have to instantaneously follow the member. For example, one option would be that perhaps once every year or two, schemes would look for stranded pots of their current members and pool them all in one go. If someone started with NEST, moved to NOW and came back to NEST, in that scenario, if the pooling together happened a couple of years later, they would never have had to put the money from NEST out to NOW and back to NEST. They would have stayed as a NEST member, their NEST entitlement would stay where it was, and all they would have to do is consolidate the one pension that was with another provider.[184]

The Minister had considered a proposal put forward by some members of the pensions industry to the effect that when an individual changed jobs, they would leave the pension

[180] Ibid, c339
[181] Ibid, c340-2
[182] Ibid, c342
[183] Ibid, c343
[184] Ibid, c336

behind them and their new employer would contribute to that pension. However, he thought this could result in employers becoming less engaged in workplace pensions.[185]

Incentives to transfer pension rights

DWP explains that a common method for reducing the risk that employers are exposed to by their sponsorship of a pension scheme is to offer an incentive to a Defined Benefit scheme member to transfer their pension, or a part of it, to a Defined Contribution scheme. These are referred to as Enhanced Transfer Value (ETV) exercises.[186] At present, there is a voluntary Code of Practice in place. This was published by an industry working group in June 2012 and a monitoring board has been set up to evaluate its effectiveness.[187]

Clause 30 allows the Secretary of State to make regulations to prohibit a person from offering a financial or similar incentive to another person with the intention of inducing a member of a salary-related occupational pension scheme to transfer their rights out of that pension scheme into another pension scheme or arrangement. **Clause 31** provides that clause 30 would be repealed seven years after coming into force, if the powers had not been exercised.[188]

The Minister explained to the Committee that this was a backstop legal power the Government hoped not to use:

> We do not object to transferring one sort of pension right to another; what we object to is the use of cash bribes to get people to give up complex pension rights that they may not even understand. Clause 30 gives us the power, if we think that our code of practice is not working and we spot bad practice re-emerging, to use the force of law to stop it. As I said earlier, we do not want to use clause 30, and I would be as delighted as anyone if, under clause 31, clause 30 were to be sunset and never used. However, we thought that it was important, partly to underpin the work of the industry group, for the industry to know that if that practice continued, we would stop it.[189]

Short service refunds

Current legislation requires occupational pension schemes to offer a refund of contributions or a cash transfer if a member leaves after three months and before two years of service but has not accrued any right to future benefits under the scheme.[190] The refund applies to the member contribution only, the employer contribution remains in the scheme and can be used to cover future employer contributions, scheme administration costs or one-off scheme costs. There is no equivalent rule for workplace personal pensions. In January 2011, the Government said it was concerned that this difference could act as an incentive for employers to set up occupational pension schemes specifically to take advantage of the short service refund rules.[191] In December 2011, it said it had decided to abolish the use of short-service refunds for Defined Contribution occupational schemes."[192]

---

185 Ibid, c345
186 DWP, Short Service Refunds – Impact Assessment, DWP 0023, December 2011
187 A Code of Good Practice on Incentivised Transfer Exercises (ITE)
188 Bill 6-EN, para 126-7
189 PBC Deb 9 July 2013 c349
190 *Pensions Schemes Act 1993*, section 101
191 DWP, Preparing for automatic enrolment: Regulatory differences between occupational and workplace personal pensions. A call for evidence. January 2011
192 DWP, Meeting future workplace pension challenges: improving transfers and dealing with small pension pots, Cm 8184, December 2011

Clause 32 of the Bill provides that where all of the benefits provided by a scheme are money purchase benefits, entitlement to a "short service benefit" would commence immediately after "relevant contributions" are paid by on behalf of, or in respect of the scheme member.[193]

The Minister said he had been struck by the overwhelming support for the clause in oral evidence. He envisaged ending short service refunds soon after Royal Assent in 2014. The Shadow Pensions Minister supported the proposal as a way to encourage pension saving.[194]

Amendments relating to automatic enrolment

Clause 33 provides for exceptions to automatic re-enrolment where automatic enrolment has been deferred.[195] The Minister explained that this was designed to deal with a potential anomaly, removing an employer's three-yearly automatic re-enrolment duty if the worker's re-enrolment falls in a period in which their enrolment has been legitimately postponed (for example, because the scheme to be used for auto-enrolment was a defined benefit or hybrid scheme).[196]

Clause 34 provides for a general power to create exceptions to the employer duties.[197] Gregg McClymont moved an amendment intended to restrict its application so that it could only be used for the purposes of "resolving inconsistencies or making technical adjustments". He was concerned that as currently drafted the clause would allow entire classes of employers to be exempted.[198]

Mr Webb explained that the Government had published a consultation document in March 2013.[199] This had explained the sort of circumstances in which the power might be used:

> One example might be active members of money purchase schemes who have given notice of retirement—people who have told their employer that they are about to retire, but, because the law says that they have to be auto-enrolled, have to be put in a pension scheme by their employer the week before they retire, leaving them having to opt out after leaving the firm.
>
> Another example might be people who have handed in their notice during a deferral period—the firm is going to auto-enrol them, but has deferred doing so, but they hand in their notice and the notice period goes past the end of the deferral, so the employer has to enrol them even though they are going to leave. At a pensions conference, I came across one employer who had had to auto-enrol someone who had not started with the firm and not even actually worked for it, because of a change of mind. Such things need to be dealt with.[200]

In addition, DWP had provided a briefing paper on clause 34.[201] The clause was "deliberately broadly drafted to enable us to cover situations as they arise, to avoid auto-enrolment being a waste of time."[202]

---

[193] Bill 6-EN, para 129-130
[194] PBC Deb 9 July 2013 c350
[195] Bill 6-EN para 131-35
[196] PBC Deb 9 July 2013 c351
[197] Bill 6-EN, para 138
[198] PBC Deb 9 July 2013 c351
[199] DWP, Technical changes to automatic enrolment- public consultation on draft regulations and other proposed changes, March 2013
[200] Ibid c353
[201] DWP, Clause 34 – Automatic enrolment: powers to create general exceptions, 1 July 2013

Mr McClymont said he did not intend to press the amendment to a division at this stage but hoped the Minister would consider the matter further.[203]

Clause 35 would extend an existing power in the *Pensions Act 2008* to limit administration charges.[204]

Mr McClymont moved an amendment intended to ensure "full disclosure of all costs and charges with respect to a pension scheme". This provided for administration charges to be defined in regulations and for schemes to be required to declare any such charges, together with any transaction charges incurred by funds in which qualifying schemes are invested, to the Pensions Regulator. He said this was an important first step towards having a private pensions market that functions effectively.[205] The Minister responded that existing powers gave the Government greater flexibility to respond to developments in the market:

> I agree with the hon. Gentleman that the industry can be very creative when it comes to finding ways to get money out of people's pension schemes. I entirely accept that point, and that is precisely why we need flexibility to act and to define charges broadly, rather than having half-lists.[...]To be clear, our existing powers give us greater flexibility than those proposed in the hon. Gentleman's amendment. I am sure he will be familiar with section 16(4) of the *Pensions Act 2008*, which effectively sets out that an administration charge—the phrase he uses in his amendment—is due whenever any payments are made to the scheme and any investment returns or the value of any rights under the scheme are used in any way that does not result in the provision of pension benefits, including in defraying administrative expenses and paying commission. So we already have a broad, general power to define charges.[206]

On transaction fees, a good practice statement had been issued for asset managers:

> [...] the Kay review on equity markets had a specific recommendation on stock lending. Interestingly, recommendation 10 was: *"All income from stock lending should be disclosed and rebated to investors."*
>
> The Government's response said: "*The Government agree that stock lending activities should not bring about misaligned incentives for asset managers or other intermediaries, and therefore supports this recommendation."*
>
> I will not read out the whole response, but the Government go on to say: "*We believe that the best way to address these problems is for asset managers and other intermediaries undertaking stock lending to disclose separately both the total income generated for their client from stock lending and any costs associated with undertaking the activity."*
>
> That recommendation is reflected in the good practice statement for asset managers, which signals Professor Kay's intention to improve behaviour through the development of industry good practice.[207]

---

202 PBC Deb 9 July 2013 c353
203 Ibid c356
204 Bill 6-EN, para 140; More on the background to this is in Library Note SN 6209 Pension scheme charges
205 PBC Deb 11 July 2013 c376
206 PBC Deb 11 July 2013 c386
207 Ibid c387

The Government would issue a progress report in Summer 2014, assessing extent to which the pensions industry had responded to its recommendation and "what further action might be appropriate in the context of relevant EU policy developments in this area."[208]

The Minister went on to say that the Government already had the power to make administration charges registrable to the Pensions Regulator and to prescribe that information should be made available to members and employers.[209] The industry was working to improve transparency:

> In January this year, the ABI launched an agreement on the disclosure of costs and charges to members of work-based defined contribution pension schemes; to date, 14 major providers have signed the agreement. What have they committed to do? They have committed to disclosing all charges and costs in a consistent way to members, not only at the outset, but annually—drawing on the work of the Investment Management Association—to ensure the disclosure of costs. Crucially, a common definition of all the charges that need to be disclosed at the outset to members of pension schemes will be developed over the first half of this year.[210]

The Office of Fair Trading (OFT) was working on the defined contribution market and had issued a notice highlighting a number of issues of concern, including governance and active member discounts. It was also concerned about adviser commissions.[211] He concluded by saying that he agreed that pension scheme charges should operate transparently and wanted to see them reduced. However, the Government's first priority was to ensure automatic enrolment worked well:

> Automatic enrolment did not start in earnest until October last year. We are still in its first year. There is no significant evidence from large firms that people are getting bad value for money, although there is the potential for that to happen. We are, therefore, consulting on quality indications. We will learn from the OFT's evidence-gathering and produce further proposals later this year. There is a hive of activity on pension scheme charges. Far from the suggestion that we are somehow asleep on the wheel, we are, in fact, ahead of the game and are making sure that, by the time we get to the smaller firms where the risks are greater, an effective regulatory regime is in place[212]

Gregg McClymont thought the Government should address the issues more urgently:

> The point I keep reiterating is that in this field is a market where we do not know what is going on. We actually do not know what is going on. That is an extraordinary situation. That is why there is a broad mass of opinion saying that the Government need to get cracking on it. For those reasons, I will press for a vote.

His amendment was defeated on division by eight votes to four. [213]

He moved a further amendment designed to extend the power to cap charges "to current stranded pots and schemes with active members, or to pots in closed-book schemes in

[208] Ibid c388
[209] Ibid c391
[210] Ibid c391
[211] Ibid c392-6; OFT defined contribution workplace pension study – 11 July Update; DWP press release, Government calls for evidence on pension scheme quality, 4 July 2013
[212] PBC Deb 11 July 2013 c396
[213] Ibid c398

which all the pots are stranded."[214] The Minister said the Government had the powers it needed:

> [...] the provisions in clause 29 and schedule 16 allow for deferred members to be protected where the scheme is required to be an automatic transfer scheme. A scheme that has received or may receive an automatic transfer will need to meet the requirements of being an automatic transfer scheme. That helps us to deal with that issue under those powers. In particular, the existing drafting of the current section 16 of the 2008 Act already enables deferred members to be protected in qualifying schemes—those were our 2011 changes. The changes proposed in clause 35, as unamended, also enable deferred members to be protected in qualifying schemes. Clause 35 removes the specific reference to "former active members" and replaces it with "other prescribed persons". This broader definition that we are proposing includes former active members, but it could go wider if necessary.
>
> In short, we accept that there are issues about people who are no longer members of schemes and about frozen and dormant pots and so on. However, the way the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East proposes to address this is, we believe, deficient. We have powers to address the position of deferred members and to use the automatic transfer powers and that gives us the powers that we need, so we do not believe that amendment 19 is required.[215]

Gregg McClymont was concerned that the Minister wanted to leave his options open. His amendment was defeated on division by seven votes to four.[216]

Clause 36 would provide for an amendment to the *Pensions Act 2008* regarding the transitional period for auto-enrolment into a hybrid pension scheme (one that include both defined benefit and defined contribution elements), so that auto-enrolment could only be postponed until the end of the transitional period where the jobholder was to be offered a defined benefit pension.[217] The Minister explained why this was needed:

> Clause 36 corrects an error in the Pensions Act 2008, which allowed certain sorts of pension schemes—essentially, defined benefit or hybrid pension schemes—to defer automatic enrolment. It was sensible to allow them to do that, partly because they are generally higher quality schemes, so, as an easement for firms providing higher quality pension provision—those firms were at the end of the queue when it came to automatic enrolment duty—that seemed to be a perfectly proper thing to do. [...]
>
> However, unfortunately, it was pointed out to us that the 2008 Act, passed under the previous Government, was deficient. It does not work as intended, because the existing provision does not work properly where both money purchase and defined benefit pensions are payable under a single hybrid scheme. If the legislation is left uncorrected, job holders who are eligible only to be enrolled into the money purchase arrangement under a hybrid scheme will lose the benefit of pension contributions from their enrolment date until the end of the DB transitional period.[218]

214 Ibid c399
215 Ibid c400
216 Ibid c401
217 Bill 6-EN para 141-45; See also HC Deb, 19 December 2012, c120WS
218 PBC Deb 11 July 2013 c403

The Government made two amendments to the clause to provide that "even if someone has DB rights under the scheme, they must still be auto-enrolled if they cannot build up new DB rights."[219]

Clause 37 would make amendments relating to TPR's powers to issue penalty notices.[220] The Minister explained that it corrected two minor errors in the *Pensions Act 2008*.[221]

Clause 38 would amend the *Pension Schemes Act 1993* "regarding the payment of a limited amount of unpaid pension contributions from the National Insurance Fund where an employer becomes insolvent so that all those who may become members of a pension scheme as a result of workplace pension reforms are entitled to this protection." The clause amends the definitions in, and references to, employees in the *Pensions Act 1993* to include workers and agency workers, thus extending to them this protection for relevant scheme contributions.[222] The Minister explained that:

> [...] at the moment if one is an employee of a firm that becomes insolvent, there is a mechanism by which the National Insurance Fund can pay pension contributions that should have been paid—and were not—in a period up to insolvency. But the way that "employee" is defined excludes the growing number of agency workers and others who are not employed earners. In the context of automatic enrolment, which brings in many people who do not currently have workplace pension provision—such as many agency workers—it is important that they have the same rights as employed earners in the event of insolvency.[223]

Pension protection levy - BT pension scheme

Clause 39 provides a power to require Pension Protection Fund (PPF) levies to be paid in respect of past periods. The Government explains that this is necessary to recovery payment of levies due in respect of the tax years 2005/06 to 2009/10 from schemes covered by a Crown guarantee where an exemption from payment of the levies would give rise to incompatible State aid.[224] It relates to the BT pension scheme and to a decision of the European Court of Justice that it should pay the PPF levy. The Minister explained to the Public Bill Committee why it was necessary:

> There is some complexity attached to the BT pension scheme, relating to the fact that BT was privatised and to the role of a Crown guarantee in a privatised pension scheme. Given that BT pensions are subject to a Crown guarantee, one might then assume that Pension Protection Fund arrangements should not apply, because if BT became insolvent the pensions were protected anyway. So why should BT pay a Pension Protection Fund levy?
>
> Not surprisingly, BT took the view that it should not have to pay this levy. But the European authorities looked at the issue and said that BT, compared with other telecom providers at home and abroad, might be seen to be favourably treated. That is because another telecom provider in the same market has to pay a PPF levy and BT did not because of the Crown guarantee.[...]

219 Ibid, c404
220 Bill 6-EN para 146-8
221 PBC Deb 11 July 2013 c405
222 Bill 6-EN, para 26 and 149-151
223 PBC Deb 11 July 2013 c406
224 Bill 6-EN, para 26 and 152-4

> The clause provides for regulation-making powers to enable recovery of the PPF levies—the protection levy and the administration levy—as required by the decision of the Commission of 11 February 2009. The outstanding levies are for the years 2005-06 to 2008-09 for the pension protection levy and 2005-06 to 2009-10 for the administration levy. It is respect of the levies for those years that the Government need to legislate.
>
> The main purpose of the clause is to ensure full compliance with the Commission's decision. As the Committee will know, there are two levies: the protection levy, which is largely risk based and goes towards PPF compensation, and the administration levy, which meets the PPF running costs. In its decision of 11 February 2009, the Commission ruled that the exemption, arising from a Crown guarantee, of the BT pension scheme from payment of levies to the PPF constituted an incompatible state aid and must cease.
>
> The PPF, the BT pension scheme trustee and BT plc reached an agreement in respect of the PPF risk-based levy from 2005-06 to 2008-09 through the setting up of an escrow account—a blocked account containing only the maximum amount of levies that could be due in respect of each levy year, up to and including 2008-09, plus the applicable recovery interest—pending the outcome of BT plc's appeal against the Commission decision. That arrangement was agreed by the Commission.
>
> Regulations were introduced in March 2010 to ensure future compliance on the PPF protection risk-based levy and in July 2010 for compliance on the PPF administration levy. The Government are therefore compliant with the Commission's decision, apart from the recovery of the levies between 2005-06 and 2009-10. The clause will enable the Secretary of State to make regulations to recover those moneys and ensure full compliance.
>
> The Commission expects the UK Government to apply the same reasoning to schemes in a comparable legal situation when the facts are the same. However, the regulations made under the clause will have limited application, as the Government are not aware of any other scheme in the same position—that is not surprising, really. We therefore believe that the clause will apply only to the BT pension scheme, and only for the period I have described. The money will go into the Pension Protection Fund and will benefit members of occupational pension schemes and their employers.[225]

The Public Bill Committee received written evidence on behalf of both BT and the Trustee of the pension scheme, arguing that clause 39 was too widely drawn and should be amended so that:

> 3.1 BT and the Trustee are concerned by the wide regulation-making powers in Clause 39. Although apparently motivated by the administration levy under section 117 of the Pensions Act 2004, the regulation-making power in Clause 39 expressly applies to the Levies under sections 174 and 175 as well. BT and the Trustee are therefore concerned that the power could be used to make regulations for the recovery of the Levies for PPF levy years 2008/9 and earlier, which could include either terminating the Escrow Agreement (and paying the monies in the Escrow Account to the PPF) or demanding the Scheme pay the balance of the Levies to the PPF immediately, notwithstanding that amounts equal to those Levies have been paid to the Escrow Account (i.e. double recovery). BT and the Trustee believe that there would be no justification for this whatsoever, as it was recognised by all parties (the PPF, Her Majesty's Government and even the European Commission itself) that the Escrow Agreement was an appropriate interim remedy for resolution of any issues of unlawful

[225] PBC Deb 11 July 2013 c407

> state aid whilst the Annulment Proceedings were ongoing. It is not appropriate for the Secretary of State to seek regulation-making powers which are so wide that he could enact legislation in respect of an agreement which all relevant parties have agreed is an appropriate interim remedy.
>
> 3.2 BT and the Trustee have therefore asked us to write to Her Majesty's Government to petition for an amendment to Clause 39 to ensure that, where binding arrangements, such as the Escrow Agreement, are already in place to provide for full payment of the Levies (once the Annulment Proceedings have concluded), the Secretary of State's regulation-making powers should be restricted.[226]

Other changes affecting private pensions

Clause 40 provides for a company to be prevented from becoming a trustee if one or more of its directors has been prohibited from acting as a trustee by TPR. Under current rules, if a prohibited trustee becomes the director of a company, there is no restriction on the ability of that company to operate as a corporate trustee.[227] The Minister said:

> The key point is that this measure closes a loophole in the current prohibition regime which could be exploited by those not fit and proper to be trustees to continue to act in this capacity through a company directorship, and thus potentially have control over significant occupational scheme assets.[228]

Clause 41 provides for an amendment to companies' legislation to provide exemption from liability for damages to bodies providing statutory money purchase illustrations (SMPIs) based on that body's technical memorandum.[229] Schemes offering money purchase benefits have to issue members with SMPIs, the aim of which is to provide illustrations of pension benefits on a broadly consistent basis across various types of money purchase pension provision. They are intended to assist individuals to assess the adequacy of their pension and the extent to which they need to make further provision.[230]

The Minister explained that the clause was necessary to protect the Financial Reporting Council (FRC), which produces guidance on the production of SMPIs:

> The clause makes clear that the FRC (or any other body) may benefit from the exemption from liability for damages in relation to this activity. We are protecting the FRC, to make sure that, if in good faith they produce guidance for schemes, they are not subject to damages as a result. It makes the position consistent with the approach for the other things that the FRC does on accounting and actuarial matters. It will enable the FRC to exercise its statutory functions, limiting the risk to its own financial position and to its becoming involved in disputes between pension providers and pension scheme members over the content of illustrations.[231]

Clause 42 sets out a new objective for TPR that would require it, when exercising its functions in relation to scheme funding, to "minimise any adverse impact on the sustainable growth of an employer."[232]

---

226 Written evidence from Hogan Lovells International LLP (PB 53)
227 Bill 6-EN, para 155-8
228 PBC Deb 11 July 2013 c409
229 Bill 6-EN, para 26 and para 159-62
230 IDS Pension Service, Pension trustees and administration, (October 2010) para 10.30
231 PBC Deb 11 July 2013 c410-11
232 Bill 6-EN, para 163

The Minister explained that in regulating the funding of defined benefit schemes, TPR had to strike a balance to make sure there was enough money in the pension fund to pay out liabilities while not placing too great a burden on the sponsoring employer. He said that in recent years, representations had been made that flexibility was not quite right. Following consultation, the Government had decided to extend TPR's remit to include a growth objective. He explained that the language of the clause closely mirrored that in existing guidance:

> That is not a wholly new concept in pension regulation. I imagine that the Committee is already familiar with the Pensions Regulator's regulatory code of practice 03, "Funding defined benefits", which states at paragraph 102:
>
> > "When considering the structure of a recovery plan and the contributions required, the trustees should take into account the following matters: the employer's business plans and the likely effect any potential recovery plan would have on the future viability of the employer".
>
> The language of the existing guidance closely mirrors the language of clause 42. This is not a step change or a radical departure or about just looking after the firm rather than the pension plan; it is a much more nuanced change. It makes explicit what was in paragraph 102 of the existing guidance. The idea behind it is that in the delicate negotiation between the trustee and the firm, the firm is able to say to the trustees, who of course want the pension scheme gap filled as quickly as possible, "If we go to the regulator with our plan, the regulator is allowed explicitly in statute"—assuming the legislation goes through—"to say that where the employer is coming from is acceptable because it might be a slower recovery plan than you wanted, but it is the best way to ensure that the firm is still here in years to come." We would all agree that the best way to ensure that pensions are properly funded is to ensure that the sponsoring employer is still around to pay the pensions.[233]

Gregg McClymont commented that the Minister had done an "excellent job of setting out the different things that had to be balanced."[234]

Clause 43 reduces the frequency of returns to TPR required of "micro-schemes" (i.e. schemes with no more than four members).[235] DWP explains that current legislation requires all occupational pension schemes to provide a scheme return at least once every three years and that processing the scheme of returns for 2-4 member Defined Contribution schemes with this regularity incurs disproportionate cost to both TPR and to the schemes. which are a low risk group.[236] The Minister explained why the Government had decided to focus on micro-schemes only.[237]

Clause 44 provides for regulation and orders. The Minister explained the approach the Government had taken in deciding which regulations under the Bill should be subject to the affirmative procedure in Parliament.[238]

Clause 47 provides for the commencement of provisions in the Bill. The Minister explained:

---

233 PBC Deb 11 July 2013 c414

234 Ibid, c416

235 Ibid para 164-5

236 DWP, Reduce the frequency of returns to the Pensions Regulator by defined contribution schemes with 2-4 members, DWP 0029, March 2012

237 PBC Deb 11 July 2013 c418

238 PBC Deb 11 July 2013 c419-20

Subsection (4) specifies that the following will commence two months after the Act receives Royal Assent: part 2, relating to pensionable age; sections 30 and 31, which relate to incentives to transfer pension rights; section 37, which is the penalty notices; sections 41 and 42, which are the statutory money purchase illustrations and the regulator's objectives; and paragraph 30(2) of schedule 13.

For the avoidance of doubt, subsection (5) provides that the single-tier pension will come into force on 6 April 2016, unless it, or any provision of it, has already been brought into force by the Secretary of State under subsection (1). Under subsection (6), the Secretary of State can amend subsection (5) to change the start date and specify a later date instead, and amend references to April 2016 in part 1 of the Bill.

Most transitional provision has been drafted into the primary legislation, but we may need some provision on commencement; for example, if, as we suspect may be the case, bereavement benefits are to be changed a year later than single-tier comes in. The Bill was originally drafted on the premise that both would happen at the same time, but, if not, we may need transitional provision to account for the interim treatment of category B pensions. Subsection (7) gives the Secretary of State the power to make such provision.[239]

PPF: increased compensation cap for people with long service

On 1 July 2013, the Pensions Minister announced that he would be tabling amendments to the Bill to enable those with service of more than 20 years with a firm to get an enhanced level of compensation from the Pension Protection Fund.[240] A deposited paper provided more detail.[241] An Impact Assessment was also produced.[242]

The Minister told the Public Bill Committee that:

> The new clause relates to the Pension Protection Fund cap. The issue here is that when people go for PPF assessment, those who are already over their scheme's pension age get an uncapped pension, but those below that are subject to a cap.
>
> The original thinking behind that cap was partly as a cost-control measure and partly to prevent moral hazard. The argument there was that if the rules stated that anybody who was drawing a pension would get that in full, even after an insolvency event, and the people who had not started to draw a pension would have to make do with what was left in the fund, there might be an incentive for those in the know at the top of a firm close to insolvency to retire and draw their pension before scheme pension age.[...]
>
> The basic cap was working as expected; it has been in place since 2004, it does control costs and it is part of the moral hazard regime. I should stress that it affects a relatively small percentage of individuals: less than 1% of those receiving payments. However, one of its consequences was a disproportionate effect on those with long service and, in a debate in Westminster Hall on the Visteon pension scheme for former Ford workers in December 2012, I announced that we were looking at the operation of the cap.[...]
>
> New schedule 1, which is grouped with this new clause, inserts a new definition of the compensation cap into schedule 7 of the *Pensions Act 2004*. This is the schedule that

239 PBC Deb 11 July 2013 c421
240 HC Deb 1 July 2013 c604
241 DWP, PPF compensation cap – House of Commons Deposited Paper 2013-1146, 4 July 2013
242 Pension Protection Fund – compensation cap amendments. Impact Asessment, 4 July 2013

deals with the calculation of compensation. It brings in a new compensation cap, which essentially will be based on an enhanced level for people who have served for more than 20 years. There is a figure for the cap which can be actuarially reduced for people who take early retirement. That will be increased and we envisage this to be by 3% for each year of service beyond 20. It is very much focused on those who have relatively high pensions. We are not talking about people on very low pensions, but about people who have worked for a firm for a long period and who have expectations about their pensions.

This new definition deals with members who will become entitled to compensation after the legislation comes into force. It provides for a standard cap to apply to anyone with 20 years' service or less. I will give the Committee the figure: the standard cap applies to everyone at present and is £34,867 at the age of 65, but is reduced for earlier years. So where a person has been in a scheme for 21 years or more, the standard cap will be increased by 3% for each full year of service, to a maximum of double the standard cap. To clarify: we will bring forward further amendments to extend the scope of this.

The amendments before us now enable the Committee to consider this measure, which deals with those who come into the scheme after this legislation is in force. We also plan to pick up the people in the PPF already such as, I think, some of the Visteon workers. It will not be retrospective in the sense that we will not go back to all the past years and say:"We will increase the cap now. Had that rule been in force then you would have got a bigger pension". But it will be prospective even to people already in the PPF and have had their pensions capped. So the new capping rules will be applied when this comes into force—our best estimate would be April 2015. [243]

National Employment Savings Trust (NEST) restrictions

The *Pensions Act 2008* provided for restrictions designed to ensure NEST remained focused on its 'target market'. These included: i) an annual cap on contributions; and ii) restrictions on transfers in and out of NEST (preventing bulk transfers of existing schemes and limiting transfers by individual scheme members).[244] The restrictions were to be reviewed in 2017.[245] However, the *Making automatic enrolment work review* set up by the current Government recommended that both restrictions should be reviewed as a matter of urgency.[246] Then, in a report published in March 2012, the Work and Pensions Committee argued that the restriction on transfers might have unintended consequences.[247]

In November 2012, DWP launched a consultation on the constraints on NEST.[248] In its response to consultation published on 9 July 2013, the Government said it would

• legislate to remove the individual transfer restrictions to coincide with the launch of automatic transfers ('pot follows member'); and

• legislate as soon as possible to lift the other constraints from April 2017.[249]

---

[243] PBC Deb 11 July 2013 c422-3

[244] Supporting automatic enrolment: government response to the call for evidence on NEST constraints, 9 July 2013, Foreword

[245] *Pensions Act 2008,* section 74 (1)

[246] Making automatic enrolment work review, October 2010 Executive summary

[247] DWP, Supporting automatic enrolment: A call for evidence on the impact of the annual contribution limit and the restrictions on transfers on the National Employment Savings Trust, p2-3

[248] Ibid

[249] Supporting automatic enrolment: government response to the call for evidence on NEST constraints, 9 July 2013, para 4.12-4

Gregg McClymont moved an amendment to require to restrictions on NEST to be lifted earlier:

> Let me explain a little more why that is the case. The income cap will not be such a problem up to 2017; I agree with the Minister about that. The problem lies in the continuing ban on transfers in and out. DWP research has found that over 80% of employers want one provider, which is understandable. The ban on transfers in, however, means that NEST is stuck: until it is lifted, NEST will be unable to sign up employers who already have a pension scheme. The DWP anticipated that problem last week by saying that 84% of employers with fewer than 250 employees provided no workplace pension so would not be affected by the continuing ban on transfers in. However, recording that based on employers is not a good proxy for employees. Of course, NEST's duty is to serve employees on low and medium incomes and companies of all sizes, not just SMEs. Has the Minister fully considered that?
>
> New clause 4 obliges the Minister to notify the European Commission of his desire to lift the ban on transfers in and out and to lift the cap on NEST. Specifically, the new clause remains important because, although the Government take the view that announcing the lifting of the restrictions now, even if it does not bite until 2017, encourages employers to go into NEST, the problem lies with employers who currently have a pension scheme but who would like to take their employees into NEST.[250]

The Minister argued that lifting the cap on contributions early could create problems for pension providers who had newly entered the market:

> Imagine a pension provider had come into the market to compete, and then after entering the market and perhaps incurring set-up costs, the Government changed the rules in favour of the state-subsidised provider. I think there is a risk that that might have been challenged, possibly by the European Commission.[251]

Furthermore, there could be "uncertainty and limbo" while people waited for the European Commission to decide whether the restrictions could be lifted.[252] In the short-term, he wanted NEST to focus on getting people auto-enrolled.[253]

Gregg McClymont's amendment was defeated on division by nine votes to five.[254]

5 Report Stage and Third Reading

The Bill as amended in Committee is HC Bill 91. DWP produced a version of the Bill showing changes made in Committee.

The Bill had its Report Stage and Third Reading on 29 October 2013. The Government produced a briefing paper to explain the effect of amendments it was making to the Bill.[255] What follows is an overview of the main issues debated, concentrating on those amendments which were made to the Bill, or on which there was a vote. Other issues

[250] PBC Deb 11 July 2013 c427
[251] Ibid c431
[252] Ibid c432
[253] Ibid c432
[254] Ibid c434
[255] Gov.UK, Government amendments to the Pensions Bill 2013 – briefing paper; Briefings for Report Stage were also produced by organisations such as Age UK.

debated and the debate at Third Reading are covered House of Lords Library Note LLN 2013/037 Pensions Bill (HL Bill 55 of 2013-14).

Single-tier State Pension

Women born between 1951 and 1953

Shadow Pensions Minister Gregg McClymont moved an amendment that would require the Government to conduct a review to determine whether all women born on or after 6 April 1951 should be included within the scope of the single-tier State Pension. He said:

> The Government would be doing themselves a massive favour by undertaking this review, given the sense among significant groups of women that the Government do not care enough about their pension provision.[256]

It was debated together with an amendment tabled by Caroline Lucas, which had the aim of providing women born between 6 April 1951 and 5 April 1953 with the right to choose to receive the single-tier State Pension and associated benefits from the date of its introduction in April 2016. Ms Lucas said:

> My new clause 6 simply gives these women the right to choose to receive their state pension and associated benefits under the new state pension system set out in part 1 from its introduction in April 2016, if they judge it to be in their best interest to do so. It would not require the Government to tell them what to do, merely to ensure that information about the full range of entitlements under the old state pension rules and the new state pension is available to allow women to make a comparison of total weekly income. The responsibility for making a choice would rest fully with the individual.[257]

Pensions Minister, Steve Webb, said the problem was that people could not know what their circumstances would be in future:

> A woman could choose to take the single-tier pension on day one, which would look like the right thing to do because she would get more than she does under the current system, but if her husband died the next day she would not get a derived widow's pension and she would have made herself worse off as a result.[...] In addition to the issue of people who will subsequently be bereaved is that of people who will flow on to savings credit, and nobody can possibly know whether, at some point during the course of their retirement, they will move on to that. Although I understand the concerns that have been raised, that group of women have actually benefited from the triple lock that we have introduced.[258]

The Opposition amendment to require a review was defeated on division by 295 votes to 231.[259] These issues are discussed in more detail in Library Note SN 6620 Single-tier State Pension – women born between 1951 and 1953 (8 November 2013).

Entitlement based on the contributions of others

The Opposition moved an amendment to require a review of the costs and benefits of permitting women within 15 years of State Pension age to retain the right to draw a state pension on the basis of their husband's contributions.[260] The Minister responded that the Government did not want to keep "for another 15 years, an extraordinarily complex bit of the

[256] HC Deb, 29 October 2013 c851
[257] HC Deb 29 October 2013 c846-7
[258] HC Deb 29 October 2013 c856
[259] Ibid
[260] HC Deb 29 October 2013 c840-1 [Sheila Gilmore]

system." There would be protection arrangements for those who had elected to pay the 'married woman's stamp'. In addition, there would be the option of paying voluntary NI contributions in respect of missing years, back as far as 2005-06.[261] The amendment was negatived.[262]

Statutory over-ride

The Government made a number of amendments to the employer over-ride provisions at Report Stage. The briefing produced in advance of Report Stage explained:

> When the single-tier state pension is introduced on 6 April 2016, the State Second Pension (S2P) will close and consequently, so will the ability to contract out of S2P. This is where an individual gives up entitlement to S2P in return for provision of a broadly similar benefit through their Defined Benefit occupational scheme. The individual and their employer will also pay a reduced rate of National Insurance (known as the NI rebate). Given that sponsoring employers will lose the NI rebate when contracting out ends, the Bill contains a statutory override provision to allow employers to adjust their scheme design to offset the additional National Insurance costs, without trustee consent. These amendments make minor adjustments to the override provisions.
>
> **Amendments 2, 19 and 20** are technical amendments to ensure that the override power can be exercised to allow for scheme changes to apply to all active scheme members.
>
> **Amendments 3 and 4** will ensure that employers can enrol new scheme members into the pension scheme as amended under the override provisions. This will place new members and those who were members of the scheme before the end of contracting out in the same position and help to avoid a situation in which employers close their scheme to new members.[263]

These amendments are now in clause 24 and Schedule 14.

The Opposition moved amendment 37, with the aim of excluding from the statutory override in clause 24, schemes to which protected persons regulations relate.[264] Gregg McClymont said:

> I am certainly not saying that accruals and the terms and conditions of a pension can never be changed in any circumstances, but there is a specific set of politically charged circumstances to do with the privatisation of these industries. Specific undertakings were given to the members of those schemes to encourage them to accept, if not actively support, the privatisation of the industries in which they worked. I urge the Minister to tell us this evening, if he can do so, whether he intends to use the power he is giving himself in the Bill to honour the promises made to the members of those schemes. If he will not do so, we will force a Division to test the opinion of this House on amendment 37, which would mean that the promises made to the 50,000 or so men and women in those protected schemes were met.[265]

---

[261] Ibid c853

[262] HC Deb 29 October 2013 c856; Report Stage Proceedings 29 October 2013

[263] Government Amendments to the Pensions Bill 2013 (Commons Report Stage) – briefing paper, October 2013

[264] HC Deb 29 October 2013 c860

[265] HC Deb 29 October 2013 c849

The amendment was defeated on division by 290 votes to 230.[266]

Amendment 35, in the name of John McDonnell and Grahame Morris, which would have required employers to have the consent of the trustees in order to over-ride scheme rules, was not called and so there was no vote.[267] For more detail, see Library Note SN 6725 Pensions: possible statutory override for 'protected persons regulations' (4 November 2013).

Uprating of the single-tier State Pension overseas
An amendment in the name of Sir Peter Bottomley and Sir Roger Gale to leave out clause 20 of the Bill (which would provide for the Single-tier State Pension to be frozen in certain overseas countries) was "not called", so there was no vote.[268] For more detail, see Library Note SN 1547 Frozen overseas pensions (November 2013).

Pension Credit

The Government added two new clauses to the Bill to provide for the abolition of Assessed Income Periods (AIPs) in Pension Credit from April 2016. An AIP is a period where customers do not need to notify DWP of changes to retirement provision (broadly defined as capital, annuities and retirement pension) for the purposes of assessing their entitlement to Pension Credit. The abolition of AIPs was announced in Spending Round 2013.[269] Introducing the amendment at Report Stage, the Minister explained that:

> The basic idea [behind the assessed income period] was to avoid the need for people on pension credit to keep reporting changes in their circumstance—the basis was that older pensioners in particular have less frequent changes of circumstance. The basic idea of the assessed income period was a perfectly reasonable one but, unfortunately, it has not worked in practice and has raised a lot of issues.
>
> To give an example, if someone in retirement inherits substantial wealth from the generation above them, they can continue to get pension credit for five years or even indefinitely, despite having very substantial wealth. If someone retires, has an assessed income period and then starts to draw a new stream of pension income, they can go on getting pension credit despite the fact that their living standard is well above the level of pension credit. We have given this a good go, and it was a reasonable thing to try, but in practice it has created anomalies, with payments to people who, if they were assessed on their current circumstances, would not be entitled to benefit.
>
> The Government have taken the view that assessed income periods should not be part of the system in the future, but we accept the need for a transition period. The amendments propose that people who already have open-ended AIPs, such as the oldest pensioners, will be able to continue with them.
>
> I hope I have given an intuitive flavour of the changes, but to be more precise, the purpose of new clause 3 is to provide for the abolition of the assessed income period in pension credit cases from April 2016, while new clause 4 will correct existing pension credit legislation to ensure that the provision relating to indefinite AIPs for people over the age of 80 works as intended. The effect of new clause 3 will be to limit the application of the legislation on AIPs to decisions that take effect before 6 April 2016 so that from that date no new AIPs will be set. It will also ensure that AIPs set before 6

---

[266] HC Deb 29 October 2013 c860 (division no. 112); House of Commons Votes and Proceedings Tuesday 29 October 2013; The Government has yet to publish the conclusions of its review on this issue. When it does, the response should be on the Gov.UK website - here

[267] Pensions Bill 2013/14 – Report Stage proceedings 29 October 2013

[268] Pensions Bill 2013/14 – Report Stage proceedings 29 October 2013

[269] HM Government, Spending Round 2013 – policy costings, June 2013

April 2016 will remain valid beyond that date, thereby transitionally protecting the indefinite status of certain existing AIPs. The amendments also provide for regulations to be made for the purpose of phasing the termination, from 6 April 2016, of all AIPs of five years or shorter in length that were set before that date. Amendment 13 concerns the commencement of the new clause and ensures that the amendment will come into force on the day that Royal Assent is obtained. I commend new clause 3 to the House.[270]

These provisions now constitute Part 3 of the Bill – clauses 27 and 28.[271] For more detail, see Library Note SN 6677 Pension Credit: assessed income periods (23 October 2013).

Bereavement support payment

The Government amended the Bill to allow regulations to be made to prevent payment of Bereavement Support Payment to prisoners.[272] The Governments briefing on the amendment explained:

> **Amendment NC2** brings Bereavement Support Payment into line with other social security benefits (including the single-tier pension) by providing a regulation-making power to prevent payment of Bereavement Support Payment to a person who is imprisoned, detained in legal custody, or unlawfully at large. Where someone is on remand, it provides that payment is suspended but would be repaid in full if a sentence is not later imposed.
>
> **Amendments 25, 26 and 27** are consequential amendments so that relevant references in other enactments are to Part 3 of the Bill ('Bereavement Support Payment') rather than the separate section numbers.[273]

Private pensions

Pension scheme charges

The Government amended the Bill to allow for regulations to limit or prohibit charges and to impose governance and administration requirements for pension schemes specified in regulations. Steve Webb explained that:

> Government new schedule 1 and Government new clause 1 give us the power to put a set of powers to cap and regulate charges and quality all in one place. That includes automatic enrolment schemes, qualifying schemes and closed schemes. Lots of people have lots of money tied up in closed schemes. Without those measures, we would not necessarily have the powers we need to regulate the charges they pay.
>
> Amendment 30 extends the existing approach set out in the Pensions Act 2004 so that if a trustee or manager who received a penalty took monies from scheme funds in order to pay those penalties, this would be a criminal offence. This is applied to both the compliance powers on charges and quality standards and on automatic transfers.
>
> The provisions to set requirements will encompass a wide range of schemes, including some which were not covered by previous provisions relating to Automatic Transfer and automatic enrolment qualifying schemes. For this reason, Amendments 11, 28 and 29 remove the original clause 35 in the Bill and quality and charge provisions in schedule 16, as they are no longer necessary. Parts of Section 16 of the Pensions Act

[270] HC Deb 29 October 2013 c838-9
[271] HL Bill 55
[272] HC Deb 29 October 2013 c866
[273] DWP, Government Amendments to the Pensions Bill 2013 (Commons Report Stage) – briefing paper, October 2013

> 2008 are also removed, to ensure that all scheme requirements are made under the same powers, which will reduce complexity for the end user.[274]

These provisions are now in clause 41 and Schedule 17 of the Bill.[275]

An Opposition amendment intended to ensure full disclosure of all costs and charges with (including transaction costs) was defeated on division by 294 votes to 232.[276] The Government's consultation document - Better workplace pensions: a consultation on charging – which was published on 30 October 2013 included proposals for a charge cap. For more detail, see Library Note SN 6209 Pension scheme charges (19 November 2003).

Short service refunds

The Government made some "largely technical" amendments to the parts of the Bill regarding short service refunds. The Minister explained:

> Amendments 5 to 10 are largely technical and deal with short service refunds. There is a category of money purchase pension schemes through which someone who has worked for a firm for under two years can have their money back when they leave. That is not in the spirit of what we are trying to achieve through our pension reforms. We want people, even those who put in relatively small amounts of pension savings, to accumulate that, build up what I call a big fat pot, and have a decent retirement. Short service refunds fly in the face of the view that even modest pension savings are worth having, and we therefore propose to eliminate them. The danger with the current legislation is that although someone joined to a pension scheme through a contract has 30 days to opt out, under the Bill they would be in the scheme on day one, and a day's or month's worth of pension contribution would be lodged. On purely pragmatic grounds we took that view that we ought to apply the same 30-day rule to short service refunds. Clause 32 abolishes short service refunds, and technical amendments 5 to 10 deliver a 30-day breathing space so that someone who is a member of a scheme for fewer than 30 days can receive a refund of what are essentially nominal contributions. I hope that amendments 5 to 10 will be welcomed across the House.[277]

Annuity brokerage service

The Opposition moved an amendment to require the Government to set up an "annuity brokerage service." Gregg McClymont, said:

> New clause 11 calls for an independent brokerage service to guide those who annuitise on retirement through the process. Its aim is to deal with the lack of competition which, according to the NAPF and others, causes people to receive an average of 20% less in their annuities than they would have received had they shopped around. That returns me to a point with which I have been trying to persuade the Minister to engage. Buying an annuity involves a huge decision which a person will make only once in a lifetime, and which will affect the rest of that person's life. However, the process is complicated, and because they find it hard to understand what they are being told, most people currently default to the annuities that they are being offered by their existing pension providers.[278]

The Minister responded that:

---

274 HC Deb 29 October 2013 c775

275 HL Bill 55

276 HC Deb 29 October 2013 c796and Ibid, c824 (amendment 'a' to NC1)

277 HC Deb 29 October 2013 c773

278 Ibid c790

> The danger with the rigidity of new clause 11 is that it presumes a backward-looking annuity model. Annuities in their current form were designed for a world where people lived for 10 years with pensions and then died. We now have a world where people might annuitise in their early 60s, or want to stop contributing to their pension pot in their early 60s, and live into their 90s. There are serious questions about the suitability of annuities for everybody. For example, people with big pension pots might want to look at a mixture of draw-down. They might want to look at alternatives, deferral or a range of options. It would be a backward step to hardwire into primary legislation that the only good thing that can be done with a pension is to annuitise through this particular model. We should give people new options at decumulation, not hardwire them into the annuity model.[279]

The amendment was defeated on division by 305 votes to 218.[280] For more detail, see Library Note SN 6552 Pension: annuities (28 October 2013).

Pension Protection Fund (PPF) - compensation cap

The Government amended the Bill to increase the compensation cap for people who had been long-standing employees, but whose schemes were already in the PPF. The Minister said:

> Government amendment 31 relates to the Pension Protection Fund compensation cap. In Committee, we amended the Bill so that workers entering the PPF would have a more generous cap if they had been long-serving employees. The amendment applies the same provisions to people who are already in the PPF. We will not go back years and increase pensions retrospectively, but once the Bill and secondary legislation is passed we will increase their pensions going forward in line with the provisions we have already made for new employees going into the PPF.[281]

These provisions are now in Part 3 of Schedule 19 of the Bill.[282]

---

279 Ibid c779
280 Ibid c828
281 Ibid, c781; See also, Government amendments to the Pensions Bill 2013 (Commons Report Stage) – briefing paper, October 2013
282 Bill 55 (HL)