Pensions Bill 2013/14 – House of Lords stages

Standard Note: SN 06846

Last updated: 18 March 2014

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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:

- Provide for the introduction of a single-tier state pension for future pensioners from April 2016;
- 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 was published in the House of Lords on 30 October 2013, having completed its Commons' stages the previous day. It had its Second Reading in the Lords on 3 December 2013. This was followed by six sittings of the Grand Committee, Report Stage on 24 and 26 February 2014 and Third Reading on 12 March.

The Government made a number of amendments to the Bill in the Lords. These included amendments to:

- Provide for the new class of Voluntary National Insurance contributions (class 3A) that had been announced in the Autumn Statement;
- Increase access to NI credits for spouses and civil partners accompanying service personnel abroad;
- Exclude schemes with 'protected persons' regulations from the application of the 'statutory over-ride';
- Ensure that the power to create general exceptions to the auto-enrolment duties could not be used to exclude classes of employers on the basis of their size;
- Require regulations to be made requiring greater transparency around transaction costs by pension schemes.

One backbench amendment, opposed by the Government, was made to the Bill at Report Stage. This was in the name of Labour Peer, Baroness Hollis of Heigham. Its purpose was to enable regulations to be made providing for circumstances in which a person may opt to have a year treated as a 'qualifying year' for the purposes of the single-tier pension if, by aggregating income from two or more jobs, their earnings exceeded the earnings factor for that year. Another amendment moved by Lady Hollis - to enable bereaved parents to be exempted from Universal Credit conditionality for a period twelve months - was defeated on division.

Three amendments in the names of the Opposition spokespersons were defeated on division at Report Stage. Their purpose was to: retain the option of using an "aggregator model" as an alternative to "pot follows member" for transfers of pension pots when a person moves jobs; require regulations to be made introducing a charge cap by 30 April 2015; and to require the introduction of an independent annuity brokerage service.

The House of Commons considered the Lords' amendments on 17 March 2014. Baroness Hollis' amendment was rejected on division. Pensions Minister, Steve Webb thanked her for raising the issue but thought a stronger evidence base was needed before deciding how to proceed. He explained how the Government intended to take this work forward (HC Deb 17 March 2014 c566).The amendments the Government had made to the Bill in the Lords were accepted.

This note aims to act as a guide to the debates on the Bill in the House of Lords. The background to the Bill is discussed in Library Research Paper RP 13/37 Pensions Bill. The debates in the Commons are discussed in SN 6634 *Pensions Bill 2013-14* – House of Commons stages

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1 Overview

The *Pensions Bill 2013-14* was introduced in the House of Commons on 10 May 2013 and had its Second Reading on 17 June 2013. The House of Commons Library research paper prepared for this debate was RP 13/37 Pensions Bill. The Public Bill Committee had twelve sittings between 25 June and 12 July 2013. It had its Report Stage and Third Reading on 29 October 2013. Debates on the Bill in the Commons are covered in Library Note SN 6634 *Pensions Bill 2013-14* – House of Commons stages.

The Bill had its first reading in the House of Lords on 31 October 2013. DWP also published updated Impact Assessments. These included:

- Summary of Impacts
- Annex A - Single-tier pension
- Annex B - Increasing the State Pension age to 67
- Annex C - Abolition of Assessed Income Periods for Pension Credit
- Annex D - Replacement of existing Bereavement Benefits for New Claims from April 2016
- Annex E - Small Pots and Automatic Transfers
- Annex F - Short Service Refunds
- Annex G - Reduce the frequency of returns to the Pensions Regulator by defined contribution schemes with 2-4 members
- Annex H -The Pension Protection Fund compensation cap amendments
- Annex I - Other measures in the Pensions Bill

DWP produced a number of papers for Peers in advance of the debates, including:

- A list of relevant older papers (DEP 2013-177)
- Pensions Bill – Information Pack for Peers (DEP 2013 1898)
- Pensions Bill – Keeling Versions (DEP 2013-1953)

The Delegated Powers and Regulatory Reform Committee (DPRRC) published its report on the Pensions Bill on 20 November 2013.[1] The Government's response to this report was published on 13 December.[2]

The Bill had its Second Reading on 3 December 2013.[3]

This was followed by 6 sittings of the Grand Committee on:

- 16 December 2013;

[1] Delegated Powers and Regulatory Reform Committee, Thirteenth Report, HL Paper 83
[2] Delegated Powers and Regulatory Reform Committee, 16th Report of Session 2013/14, HL Paper 104
[3] HL Deb 3 December 2013 c139-194

- 18 December 2013;
- 8 January 2014;
- 13 January 2014;
- 15 January 2014; and
- 20 January 2014.

The Government wrote to Peers to explain its amendments to the Bill in Grand Committee:

- DEP 2013-1975 (10 December 2013) - primarily technical in nature, many of them in response to recommendations of the Delegated Powers and Regulatory Reform Committee.

- DEP 2013-2001 (12 December 2013) - class 3A Voluntary National Insurance Contributions.

- DEP 2013-2040 (18 December 2013) - to the pension protection levy in connection with HMRC involvement in the automatic transfers process; a technical amendment to the definition of a 'member' of a pension scheme; and relating to the operation of the Pension Protection Fund.

- DEP 2014-0035 (13 January 2014) - Pension Protection Fund; alternative quality requirements for DB schemes used for auto-enrolment.

- DEP 2014-0204 (11 February 2014) - National Insurance credits for spouses and civil partners of service personnel; single-tier consequential amendments; automatic enrolment – power to exclude; power to restrict charges or impose requirements in work-based pension schemes; Pension Protection Fund compensation cap.

- DEP 2014-0210 (12 February 2014) - Protected persons - exemption from the statutory override.

Report Stage was on 24 February and 26 February 2014. The Government produced a note on its amendments regarding the disclosure of transaction costs.[4]

One backbench amendment was made to the Bill at Report Stage. In the name of Baroness Hollis of Heigham, its purpose was to enable regulations to be made providing for circumstances in which a person may opt to have a year treated as a qualifying year if, by aggregating income from two or more jobs, that person's earnings is equal to or greater than the earnings factor for that year.[5] Another amendment tabled by Lady Hollis (to enable bereaved parents to be exempted from Universal Credit conditionality for a period twelve months) was defeated on division.[6]

Three Opposition amendments were defeated on division. The purpose of these were to: retain the option of using an "aggregator model" for transfers of pension pots when a person

[4] DEP 2014-0266
[5] HL Deb 24 February 2014 c711-728
[6] Ibid, c731-48

moves jobs[7]; require regulations to be made introducing a charge cap by 30 April 2015[8]; and to require the introduction of an independent annuity brokerage service.[9]

Third Reading was on 12 March 2014. The Government produced a note on its amendments to the Bill at Third Reading, relating to disclosure of transaction costs.[10]

Participants in the debates included: Government Ministers Lord Freud and Lord Bates; Opposition spokespersons Baroness Sherlock and Lord Browne of Ladyton Labour Peers, Baroness Hollis of Heigham, Baroness Turner of Camden; Baroness Drake, Lord McKenzie of Luton, Lord Hutton of Furness and Lord Whitty; Liberal Democrat Peers, Lord German and Lord Stoneham of Droxford; Cross-bench Peer, Lord Turner of Ecchinswell; and Conservative Peers, Lord Lawson of Blaby and Lord Flight.

The Lords' amendments to the Bill were considered by the House of Commons on 17 March 2014. The Commons voted to reject Baroness Hollis' amendment.[11] However, Pensions Minister Steve Webb accepted the need to build an evidence base to better understand the extent of the issue and what action, if any, should be taken to address it.[12] The Government amendments to the Bill were accepted.[13] An amendment tabled by Shadow Pensions Minister, Gregg McClymont to the Government's amendments on disclosure of charges was defeated on division by 277 votes to 214.[14]

This note aims to act as a guide to the debates in the House of Lords. References are to HL Bill 55.

2 Single-tier State Pension

Introducing the Second Reading debate on 3 December, Lord Freud said that the core of the Bill was the provision for the new single-tier pension. This was:

> […] a flagship reform which will simplify the current state pension system and provide a firm foundation for pension saving. These reforms will replace the current, two-tiered pension system with a simpler single-tier state pension for future pensioners—those who reach state pension age on or after 6 April 2016.
>
> The full rate of the new state pension will be set above the basic means test. This will help to clarify the incentive to save privately for retirement without the need for the complex savings credit element of state pension credit. The savings credit will therefore close to those reaching state pension age on or after 6 April 2016. The introduction of the single-tier pension thus reduces means-testing in the pension system, halving the proportion of new pensioners qualifying for pension credit.
>
> There will be far less variation in state pension payments under the new system. We estimate that more than 80% of people reaching state pension age by the mid- 2030s will receive the full single-tier pension. Those who have historically done poorly in the current system, such as the self-employed, carers and those with interrupted work histories, who are often women, will benefit from the introduction of the single-tier

[7] HL Deb 26 February 2014 c930-52
[8] HL Deb 26 February 2014 c970-2
[9] Ibid c973-81
[10] DEP-2014-0362 and DEP 2014-0363
[11] HL Deb 17 March 2014 c572
[12] Ibid c563
[13] HL Deb 17 March 2014 c576-92
[14] Ibid, c592

pension. Around 650,000 women who reach state pension age in the first 10 years after the single-tier pension is introduced will receive an average of £8 per week more in state pension due to the single-tier valuation.

There will be a minimum qualifying period for entitlement to the new single-tier pension. This period will be set out in regulations, but I am able to advise noble Lords that the Government have today announced that this is to be set at 10 years, in line with the assumptions made in the White Paper and the impact assessment. Integral to the single-tier reforms is the closure of the state second pension for people reaching state pension age on or after 6 April 2016. Contracting out of the state second pension for defined benefit schemes will therefore come to an end in April 2016 and all employees will pay the same rate of national insurance and become entitled to state pension in the same way. As part of the simplification of the system, the outdated provisions which allow a spouse or civil partner to boost their state pension on the basis of the record of their partner or ex-partner will end. These provisions, introduced in the 1940s, are no longer appropriate for today's society, where the vast majority of men and women get a full basic state pension in their own right.[15]

Baroness Sherlock said the Opposition supported the creation of a simple state pension system but that it had to meet the tests of being fair to all those who had contributed, sustainable in the long term, creating a decent standard of living and encouraging private pension saving. She raised a number of questions:

The biggest challenge to understanding the reforms to state pension provision in Part 1 is figuring out who are the winners and losers. The Minister has graciously allowed us access to his officials so we hope to dig down into that before Committee. However, I wish to lay out some big questions, on which I hope he can come back. First, as the Bill goes through the House, the Minister will need to confirm the precise level at which the single-tier pension will be introduced. The reason for that is twofold. First, the Work and Pensions Select Committee recommended that, given the importance of the principle that the STP is above the level of the pension credit guarantee, the level should be on the face of the Bill. Furthermore, paragraph 3 of the DPRRC report said that the Bill is drawn in a way which means that,

> "for the first time, the rate of the state pension will be specified only in subordinate legislation".

Given that, the Minister needs to tell the House what the level of the STP will be.

Secondly, there is the issue of those 700,000 women born between 1951 and 1953 who will have to wait longer to retire but will not get the new single-tier pension, unlike men of the same age. While a line has to be drawn somewhere, I think the House will want to reflect carefully before concluding that, after a reform of this scale, a twin brother and sister should find themselves in such markedly different positions.

Thirdly, some people who are married or widowed will receive a lower pension because the derived entitlements to which the Minister referred have been taken away. In other words, they would have expected to get a higher pension based on their husband's or wife's contributions, and they will now not be able to do so. Although state pension rules of course change over time, this is a long-standing provision around which some couples have planned their retirement income. The Work and Pensions Select Committee recommended that women within 15 years of state pension age should retain that right, so I would be very interested to know why the Government decided not to accept that advice.

[15] HL Deb 3 December 2013 c140

> Fourthly, the move from 30 to 35 qualifying years could mean that a number of people, especially women and the low paid, are less likely to get a full state pension, and someone with 9.5 years of national insurance contributions will get not a penny in state pension. The House will want to understand more about the rationale for that and the consequences of that shift which reverses a significant Labour reform which reduced the number of years to 30. I would also be grateful if the Minister could confirm for the record what the safety net will be for those who do not have 10 years of contributions.
>
> Then we have the issue of the abolition of the savings credit element of pension credit. We are concerned that that will penalise those who have savings and could discourage saving in future. We will want to understand who will lose out and by how much and whether there is an issue about passported benefits which are currently attached to that.
>
> Finally in Part 1, we will want to examine the impact on both public and private sector pension schemes of the changes relating to the ending of contracting out. In addition, when these reforms are implemented, national insurance contributions for contracted out workers will rise, as will those for their employers. The Bill allows private pension schemes to amend their terms to take account of the increase in employers' contributions but public sector schemes cannot do that, presumably to avoid destabilising the public sector pension settlements. That leaves an unfunded cost on the shoulders of public sector employers. Can the Minister tell the House whether the Government have committed to meeting that cost for those public sector employers, perhaps from the £5.5 billion windfall the Treasury will get as a result of increased national insurance contributions?[16]

The Bill was read a second time and committed to a Grand Committee.[17]

2.1 Introduction on 6 April 2016

Current pensioners

Clause 1 would provide for a person reaching SPA on or after 6 April 2016 to be eligible for the single tier State Pension. The current arrangements would continue for people who reach SPA before 6 April 2016.[18]

At Committee Stage, Baroness Turner moved an amendment to include people reaching SPA before 6 April 2016 in the scope of the new scheme. Baroness Hollis proposed that older pensioners should be included in the single tier, starting with those over the age of 85 and then bringing that age down so that in a decade or so, virtually all pensioners would be on the single-tier.

Lord Freud responded that the single-tier was intended to meet the needs of today's working age population:

> This goes hand in hand with automatic enrolment and will help to give those saving today for their retirement far more clarity about what they can expect from the state.[…] The key point here is that the reforms are about restructuring spending to support saving.[19]

[16] HL Deb 3 December 2013 c145
[17] Ibid c194
[18] Bill 55-EN- para 39
[19] HL Deb 16 December 2013, c202GC

He thought extending the single-tier to current pensioners “rolling together from an 85 base” would be a “very complex exercise”, partly because the reforms involve the abolition of some current rights (such as derived entitlement and Savings Credit).[20]

In response to a question from Baroness Greengross, Lord Freud said that pensioner poverty would be monitored by means of the annual households below average income report. The Government had published a framework for the analysis of future pension incomes in September 2013.[21]

In response to a question from Lord Kirkwood, he said the Government was confident about its delivery plans for the single-tier by April 2016. Its reasons included consensus on the main principles of the reform and the fact that the single-tier was essential a variant of the process for calculating state pension based on an individual’s NI contribution. Systems would be tested in advance of implementation, through the advance claims process. It was building in contingency to ensure that the existing telephony channel could be used, just in case the digital solution did not work on day one.[22]

Women born between April 1951 and 1953

Concerns have been expressed about women born between 6 April 1951 and 5 April 1953 who would not be eligible for the single-tier State Pension, although a man born on the same date would be. The reason for this is that the State Pension age will still be unequal in April 2016, when the single-tier is introduced.[23]

Baroness Hollis moved an amendment to provide that any woman born between 6 April 1951 and 5 April 1953 would be eligible for the single-tier. She said this cohort of women felt they had been unjustly treated:

> Women older than them will have retired at a younger age and enjoy their pension for longer. Women younger than them will qualify for the new higher pension. They are caught in the middle. They have experienced up to three years’ delay in receiving their own BSP from the age of 60, only to find that men born in the same year as them will, unlike them, get the new state pension.[24]

Although in previous debates on the issue, the Government had said that women born between these dates would still draw their pension from an earlier age than men, it had failed to draw attention to the rules allowing men to claim Pension Credit from the time they reach the SPA for a woman born on the same date:

> […] just under a fifth of all men who draw pension credit—although some, of course, may be in couples—draw it before their state pension age. That is great for them. However, unlike women, when they reach 65, after 5 April 2016, they move smoothly on to the new and more generous state pension.[25]

She said this protection for men would fall away as women’s SPA rose further, offering savings which could enable the extension of the single-tier to women in this cohort.[26]

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[20] Ibid c206GC
[21] Ibid c203GC
[22] Ibid c204GC
[23] For more on the background, see Library Note SN 6620 Single-tier State Pension – women born between 1951 and 1953
[24] HL Deb 16 December 2013, c207GC
[25] Ibid c208GC
[26] Ibid c210GC

Baroness Sherlock tabled a probing amendment requiring a review to determine whether all women born on or after 6 April 1951 should be included in the single-tier:

> Taking everything into account, the DWP estimates that 90% of the women born between April 1951 and April 1953 would be better off under the existing system of pension and other benefits but, because of the complexity, it is difficult to understand how that figure has been arrived at and it would be good to receive some clarification from the Minister as to where those numbers come from, to reassure us that that is actually the case.[27]

A further amendment would have required "a detailed assessment of the impact on those women who benefit as a result of derived entitlements."[28]

Lord Freud responded that DWP analysis showed that:

> […] about 90% of the women in this group will receive more in state pensions and other benefits over the course of their retirement than a man born on the same day as them with the same national insurance record who will be getting a single-tier pension.[29]

It was not necessarily the case that the new system would be more generous than the existing one:

> We will put in place a minimum qualifying period and close access to the savings credit. We will also reduce the deferral increment rates and cease the ability to derive pension from a spouse's record. Many people will gain from single tier but there are those who will receive less, compared to the current rules.[30]

The proportion of women retiring under the current system who benefited from derived entitlement could be assumed to be "broadly similar" to the proportion of women reaching SPA just after 2016 who would be disadvantaged by its withdrawal.[31]

On 19 December, Lord Freud wrote to Peers to follow up on a number of points, including: the cost of paying the single-tier to current pensioners and to clarify some of its analysis regarding the cohort of women born between 6 April 1951 and 5 April 1953.[32]

Communications

Lord McKenzie moved an amendment designed to explore the nature and extent of the Government's planned communication strategy for the introduction of the single-tier:

> Can the Minister clarify precisely what is to happen between Royal Assent and in advance of implementation so far as state pension statements are concerned? Will these be made available proactively or will individuals have to ask for them? It is understood why a digital service is to be developed for post-implementation—that is to be welcomed—but there will be some for whom the digital approach will be difficult. That is surely the experience of universal credit. What other support will be available to these people? There is clearly some merit in being able to take stock of one's state pension provision as close to 6 April 2016 as possible, so can the Minister say how long it is expected to be before the 2015-16 national insurance data will generally be

[27] Ibid c214GC
[28] Ibid c210GC
[29] Ibid c216GC
[30] Ibid c216GC
[31] Ibid c217GC
[32] DEP 2013-2066

available at individual level? How long does it take for that to filter through to the records?

> Given more complex situations, how quickly is it envisaged that individuals will be informed of all their pension components, including the rebate-derived amounts, after 6 April 2016? What, if any, capacity will there be in the system for individuals to query, challenge or even appeal the details that they receive? […][33]

Lord Freud responded that:

> Department for Work and Pensions currently offers a state pension statement service, which allows people to request an estimate of how much state pension they may get, based on their national insurance record to date. […] we intend to continue to provide people with an on-demand state pension statement service after the introduction of single tier in 2016. Our intention is that the service will be predominantly, though not exclusively, digital—[…] For those who cannot get digital information, we will ensure that they can still get the information they need. Our statements will give individuals their up-to-date state pension position, including their foundation amount, based on their national insurance record to that point. Where appropriate, the statement will tell them how many further national insurance qualifying years they need to reach the full amount of single-tier pension. As noble Lords will appreciate, it takes a few months at the end of every tax year to ensure full consolidation of national insurance records. However, as now, people will still be able to get a statement based on their contributions up to the previous tax year, and we will update our statements to reflect people's full record for their pre-2016 years as soon as the relevant data are in place.

> PAYE records are now mainly electronic but we are working on an assumption that records on account should be ready by October 2016 for the April introduction. As for the timetable for sending out statements, we can give people accurate information on their single-tier position when all their contribution and credits to that point are recorded on their national insurance record. From Royal Assent, we will include simple information about single tier, including the relevance of this estimate in terms of working out their single-tier foundation amount. From implementation in April 2016, our intention is to provide an on-demand, largely digital, statement service.[34]

Baroness Hollis suggested providing periodic statements to people from about age 50. This could alert people to the need to address gaps in their NI record while they still had time to do this (for example, through an application for NI credits or payment of class 3 voluntary NICs).[35]

Lord McKenzie thought a number questions still needed to be answered about the information that would be provided:

> The Minister said that it would be possible to go to the previous year's statement on the normal basis by 6 April 2016. Would that statement include any estimate of what life would be like under STP or would it just be on the old basis? […] how will they spot the difference between those who are digitally able and those who are not?[36]

Lord Freud said statements before April 2016 would:

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33 HL Deb 16 December 2013, c222GC
34 Ibid c226-7GC
35 Ibid c230GC
36 Ibid c231GC

> […] contain information to help people understand what the amount stated will mean if they reach state pension age after 2016 – in other words, what the foundation amount that they could expect represents.[37]

He undertook to provide full information on the proposed communication strategy.[38]

At Report Stage, Baroness Hollis moved an amendment that would enable the Secretary of State to introduce arrangements for the periodic notification to individuals from age 45 of their entitlement to request a pension statement. She said people needed to know how reliably their state pension was building up and whether they needed to take any action to make good shortfalls.[39] Lord Freud responded that there had not been evidence of a significant response to direct mailings of pension statements in the past. The Government wanted to "test different approaches to raising awareness of the statement service to understand their effectiveness". He agreed that married women, who might previously have relied on the 60% married woman's pension, should be specifically considered in this research.[40] With that assurance, Baroness Hollis withdrew the amendment.[41] DWP produced a paper setting out the communications strategy in more detail [42]

Entitlement at a full or reduced rate

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).[43]

The requirement for 35 qualifying years is a change compared to the April 2011 Pensions Green Paper, which said 30 qualifying years would be required.[44] The change means that fewer people will reach State Pension age entitled to a full pension. The Government estimates that "around 85 per cent of people reaching SPA in 2020 will have at least 35 qualifying years."[45] This compares to around 90% with 30 qualifying years.[46]

Baroness Turner said a lot of concern had been expressed on this point. Lord Freud explained why the Government thought 35 years struck the right balance.[47] He also pointed out that the Government had extended the time limits for payment of voluntary National Insurance contributions for people reaching State Pension age from April 2016:

> We have adjusted the rules for people reaching state pension age under single tier to extend the time limits for paying voluntary contributions to 5 April 2023, for the tax years from 2006-07 to 2015-16. Usually, contributions are paid at a higher rate if more than two years have elapsed from the year in which they were due, but this rule will be suspended until 6 April 2019. This will mean that a person retiring after 2016 will have

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[37] Ibid c231GC
[38] Ibid c230GC; See DEP 2014-0266
[39] HL Deb 24 February 2013 c765
[40] Ibid c769-71
[41] Ibid c772
[42] Dep 2014-0266
[43] See clause 2 (4) and (5) for the definition of qualifying year; Bill 55-EN para 55; Work and Pensions Select Committee – see HC 1000-i 2012/13, para 72
[44] DWP, A State Pension for the 21st century, Cm 8503, April 2011, p30
[45] DWP, *The single-tier pension: a simple foundation for saving*, Cm 8528, January 2013, Annex 3, para 14
[46] DWP, *Pensions Bill 2006-07 Regulatory Impact Assessment*, chart 2.6
[47] HL Deb 16 December 2013 c247-254GC

> had a considerable amount of time, up to 17 years since the relevant gap occurred, in which to decide whether to pay voluntary contributions. So people will be able to buy after the state pension age point. They can buy back as many as they need, right down to 2006, so if someone reaches their state pension age in, for instance, 2018, they can buy 12 years. I hope that I have addressed the noble Baroness's points, and ask her to withdraw the amendment.[48]

Baroness Hollis said it was crucial to help people to top up their record, particularly in light of the 35 qualifying years needed for a full single-tier pension. She asked whether people would still be allowed to buy back years before 2006.[49] Lord Freud said they would not:

> The system does not let people buy back years before the 2006-07 point. We have relaxed the time limits because of the uncertainty around the new system. However, it is an insurance system, with the basic principle that you cannot insure after the event.[50]

Baroness Hollis thought that allowing this would help women to improve their state pension entitlements.[51]

The Minister wrote to Peers with data on NI contributions and qualifying years.[52]

Spouses or partners accompanying Service personnel abroad

Baroness Hollis raised the position of spouses and partners accompanying Service personnel abroad. She explained that it was not easy for women in those circumstances to pay National Insurance contributions (NICs) and voluntary NICs became expensive if overseas for a long period. In recognition of this, the Labour Government had introduced NI credits for this group from 2010.[53] Baroness Hollis suggested allowing these credits to be backdated to 2000. The reason was that service wives without children had in the past relied on receiving the 60% married woman's pension as a default but this option would be abolished, with some transitional protection, under the proposals for a single-tier State Pension.[54]

Lord Freud was concerned that backdating credits would be administratively burdensome. However, he did not want to ignore the position of this group if they had difficulties in building the qualifying years they needed and the Government would consider the issue further.[55] At Report Stage, the Government amended the Bill to require the Secretary of State to:

> […] make regulations to allow service spouses and civil partners, due to reach state pension age from 6 April 2016, to apply for national insurance credits for periods during which they accompanied their partner on a posting outside the UK. The regulations will make provision to allow credits for periods between 1975-76 and 2010. This will ensure that, even in the rare circumstances that someone has spent their entire working life accompanying their spouse abroad, they will still be able to build the 35-year contribution record needed for the full single tier.[56]

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[48] HL Deb 16 December 2013 c244 GC; HMRC, When and how to top up your National Insurance contributions
[49] HL Deb 16 December 2013, c241-4 GC
[50] Ibid c244GC
[51] Ibid c245-7GC
[52] DEP 2014-0070
[53] See Gov.UK, National Insurance credits
[54] Clauses 7 to 12; See Library Research Paper RP 13/37 Pensions Bill
[55] HL Deb 18 December 2013 c305-331 GC; DEP 2014-0001
[56] HL Deb 24 February 2014 c772GC.

People with multiple jobs

Baroness Hollis raised the issue of people with multiple part-time jobs who do not earn enough in any one job to reach the NI lower earnings limit (LEL). DWP estimated that in 2012/13, the number of people working in two jobs with combined earnings above the LEL, but not accruing any qualifying years towards the basic State Pension, was approximately 50,000 (10,000 men and 40,000 women).[57] Baroness Hollis talked about the sorts of women who were affected and why she thought they should be brought into the system:

> Who are they? Let me tell some of their stories: all people whom I have met, talked to and canvassed. They are rural women in their 40s with their youngest child over 12, who are patching together what we grandly call a portfolio, the components of which vary over the seasons in rural Norfolk. It might be six hours caravan or boat cleaning on the Saturday—handover day—during the summer, three small house-cleaning jobs during the week for the affluent incomer retirees on the northern coast, some mushroom or fruit picking for a few weeks and, during the winter, two or three evenings working at the nearest pub or newsagent. One woman averages about 20 hours paid work a week, most of it at minimum wage—as much as she can manage given the danger of five to 10 hours a week travel time between jobs. She has no private car, there is extremely limited public transport in rural counties and she has teenage children to care for and feed. In any case, there are few if any decent 20-hour part-time single jobs, let alone full-time jobs, in rural Norfolk for unskilled middle-aged women without their own transport and with a family to care for. This could be her life for 10 or even 20 years.
>
> Half the jobs in Norfolk, for example, are located in my city of Norwich, which is a 30-mile to 40-mile bus ride away for many people living near the coast, and buses are few. She will never be able to access those jobs, with their better pay and hours. She needs and deserves a pension, and if she cannot build one for herself she will not—this is key—be able to rely in future on any from her husband through the married women's 60% pension.[58]

She said the development of real-time information (RTI) PAYE offered a way forward, moving an amendment that would allow people to have a year treated as a qualifying year if, by aggregating income from two or more jobs, that person's earnings were equal to or greater than the earnings factor for that year.[59]

RTI PAYE was introduced in April 2013. Employers now submit payroll information to HMRC through the tax year, whenever they pay their employees, rather than at the end of the year. In addition to improving the operation of PAYE, the Government's intention is that this will allow Universal Credit to be assessed on a monthly basis, without requiring employees to report changes in their income. Further details on RTI PAYE are on HMRC's site, including the department's assessment of the impact of the new system on employers.

Lord Freud responded that some of those on lower earnings would be credited-in and there was also the option of paying voluntary class 3 NICs. A requirement to aggregate earnings to see whether they exceeded the LEL would place an administrative burden on business:

> The current arrangements for crediting a person with national insurance contributions are comprehensive. They cover all the main reasons why someone may not be working, or working only a small number of hours, such as ill health and

[57] DWP ad hoc analysis. State Pension coverage: lower earnings limit and multiple jobs, May 2013
[58] HC Deb 18 December 2013 c320GC
[59] Ibid

> unemployment, or where people are caring for a child aged nought to 12 or for someone with a disability. They also cover those currently entitled to working tax credit, and we have recently introduced credits to protect the contribution record of working-age grandparents looking after their grandchildren.
>
> Those who fall outside the scope of the crediting arrangements and who can afford to do so—higher paid households are clearly in that category—can make payments on a voluntary basis. The current rate of voluntary class 3 national insurance contribution is a very fair price at £13.55 a week, or £705 a year. The person could recoup the cost within four years of receiving basic state pension benefits.
>
> Using this approach to establish whether a person's combined earnings exceed the lower earnings limit would require the collation of tax and contribution returns for employees with multiple jobs. That clearly would place a burden on business and require HMRC to develop complicated IT which would take time and money and benefit a small number of people. We would also need to consider collecting the employer's national insurance contributions in proportion to the earnings in each job, which would add considerable administrative complexity.
>
> The question that one needs to consider is whether those who have aggregate earnings about the primary threshold should be credited or should pay a discount rate of national insurance.[60]

He said the development of Universal Credit and the operation of RTI PAYE offered a chance to look at the issue properly:

> As the new systems come into sharp focus—universal credit, RTI, single tier—there will be a chance to look at this issue properly when we know exactly what is happening, where the remaining issues are and then to find a precise way of dealing with it. It is simply too early, right now, to get a clean and elegant solution, but we do intend to look more broadly at crediting arrangements to examine the possibilities of modernising and simplifying the arrangements in that light. So there is a process. Her point is taken: it is just about what is the most efficient and effective way of solving a particular problem. What I do not know and cannot offer now is a timetable. It is something to be looked at some years—not a lot of years—in the future, in terms of exactly what should happen. I think that there will be a solution in the medium term.[61]

Baroness Hollis thought more urgent progress was needed, particularly if Universal Credit took to implement than the Government expected.[62]

Baroness Hollis returned to the issue at Report Stage. She argued that the increasing use of 'zero hours contracts' would lead to more people being in this position and that the Government had underestimated the number affected.[63] Again, she moved an amendment to allow regulations to be made providing for "circumstances in which a person may opt to have a year treated as a qualifying year if by aggregating income from two or more jobs, that person's earnings is equal to or greater than the earnings factor for that year."[64]

Lord Freud said he continued to be confident of the department's estimate of the numbers affected.[65] He thought the aggregation of earnings from multiple jobs should be considered

[60] Ibid c330GC
[61] Ibid c331
[62] Ibid c331-3
[63] HL Deb 24 February 2014 c713-6
[64] Ibid, c711
[65] Ibid c723

as part of the Government's work on the operational integration of the income tax and NI system:

> The processes required to capture and collate earnings from people in mini-jobs cannot be achieved by simply tweaking the system. Moving to the aggregation of earnings from mini-jobs can only sensibly be considered under the work on the operational integration of income tax and national insurance contributions announced at Budget 2011 by the Chancellor. As noble Lords will be aware, national insurance liability is calculated on a per job basis but income tax liability is aggregated across all sources of earnings so the issues are similar. The Government concluded that given the scale of the change that operational integration would entail and the amount of change that employers are already managing, including the introduction of real-time information, they would await further progress on these before moving forward on tax/national insurance integration.[66]

Baroness Hollis' amendment was accepted on division by 215 votes to 210.[67]

On 17 March 2014, the House of Commons voted to reject Baroness Hollis' amendment.[68] Pensions Minister Steve Webb said the Government was grateful to Baroness Hollis for raising the issue but thought a firmer evidence base was needed before deciding how to proceed:

> We have always been clear that there will be people who will not make the 35 years, particularly those who come into the country later in life, for example, but the link between multiple mini-jobs and not making the 35 years, which we are talking about here, is unclear at best. We simply do not know whether it is a transient phase for people or whether they are in a recurring pattern. Again, I counsel the House against rushing to policy conclusions in amendments that are not accurately drafted rather than saying, "Let's get the evidence base together."
>
> As well as undertaking to update our own figures, we are happy to commit to a literature review of what is known about this end of the labour market, making sure we have access to all the available data. We are also content to convene what we have grandly called an analytical stakeholder forum—that is three words of jargon in one go, so it must be impressive. The point of that is to pick the brains of those who study this end of the labour market, and we will be very pleased to benefit from the insights of the noble Baroness Hollis, with whom I have already had an informal conversation about this matter. I should stress that she would like us to retain Lords amendment 1 to avoid misrepresenting her views. We are very keen to gain her insights and those of economists and others who study this end of the labour market to try to establish what more we might be able to find out through existing data and whether any further work needs to be done.
>
> It seems to us that we need to take a step-by-step approach, rather than rushing to policy conclusions as the amendment would. If we found that there were lots of people in this situation and that something must be done, even the something that must be done might not be the thing proposed in this amendment, and it seems a bit odd to pick one option, which as far as we can see is a sort of opt-in crediting option, when there might be others. For example, one might think that lowering the lower earnings limit might be a better solution. That would reduce the number of people in this position because their combined wages would be more likely to be above that floor. It would not

[66] Ibid c725-6
[67] Ibid c728-30; Work on the operation of income tax and NICs was announced in Budget 2011, para 1.77
[68] HC Deb 17 March 2014 c572

> necessarily require an opt-in process, and it would be simpler. That might therefore be a better solution; there might be others. We might relax the rules on voluntary national insurance contributions and the deadlines for payment. One can think of a whole raft of solutions, but if we are not clear about the scale of the problem, the groups affected and the permanence or otherwise of the situation, putting just one such provision in primary legislation—giving ourselves a power we might not use through what is, at that, an ambiguous amendment—does not seem to us to be the way forward.[69]

Opposition spokesperson, Gregg McClymont, argued that the House should support the Lords' amendment:

> The amendment seeks to future-proof the Bill, to construct a pensions platform underneath the poorly paid—those in deeply insecure, fractured work—and to make it clear that this House believes that they should not lose or be denied a full state pension because of changes in the labour market structure which are not of their doing.[70]

However, the House voted to reject Baroness Hollis amendment by 274 votes to 198.[71]

Transitional entitlement based on contributions of others

The Government intends that people should qualify for the single-tier on the basis of their own contributions and therefore the Bill abolishes the right to derive a state pension entitlement on the basis of the contributions of a (former) spouse or civil partner will be abolished, with some transitional protection.[72] In particular, transitional protection is provided for married women with a "reduced rate election" in force at the start of the final 35 tax years before she reached SPA.[73]

Baroness Hollis moved amendments to protect those ordinarily resident in the UK, who were within 15 years of pension age who would have received a higher pension based on their (former) spouse or civil partner's contributions:

> The Government have rightly helped 10,000 women—it is a diminishing number—who paid a reduced stamp and have put them effectively on to the equivalent of the former 60% dependant pension. At the same time, they are taking that same pension from about 5,000 married women who would otherwise qualify for it each year. This amendment calls for a transitional period of 15 years, as urged by the Select Committee on Work and Pensions on this part of the Bill, having taken a considerable amount of evidence, including some very effective evidence from Age Concern.
>
> This amendment seeks to help women, not many of them, who have, for one reason or another, lived their lives among an older—shall we call it, although I do not mean this to be patronising at all, *Daily Mail* model—without any expectation that the Government were going to change the rules around them. […]
>
> We phased in the rise in people's pension age over a decade. We are scrapping the pension that they might have drawn at pension age, effectively overnight. I do not think that is fair. If we feel the need to give adequate warning when raising the state pension age, as we did, we should provide adequate warning and therefore transitional

[69] Ibid c565-6
[70] Ibid c568
[71] Ibid c572
[72] Clauses 7 to 12; 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
[73] Bill 55 EN, para 70-74; Clause 11 and 12 and Schedule 6 and 7

> arrangements for the most obvious group of real, not notional, losers. It is not difficult. We have the precedent of the reduced married women's stamp, which we should follow.[74]

Lord Freud responded by laying out the Government's argument for removing derived entitlement by reference for the criteria the single-tier: "fairness, simplicity and sustainability". It believed that fairness meant:

> […] means ensuring an adequate state pension for people who have contributed to the system. That is why we are recycling the savings from aspects of the current system being abolished, including derived entitlement, to give a boost to individuals who have historically been excluded from additional state pension, such as carers, the self-employed and the low-paid.[75]

The Government estimated that to continue running the basic pension derived entitlement provisions for people reaching State Pension age up to 2030-31 would cost around £200 million per annum in the 2030s for Great Britain. If, as the Government believed, it was not possible to restrict transitional protection to those ordinarily resident in the UK, there would be additional costs in respect of those overseas.[76]

Lord Freud said introducing transitional provision for this group would introduce complexity, for example, requiring the Government to tell people about their entitlement under the current system as a married person and how this might change if they were widowed.[77] He concluded by saying:

> I hope that by now it is clear why we have not put in place transitional arrangements and why we have no intention to undertake a review to this effect. We have, however, put in place some protection, specifically to ensure that women who had paid the reduced rate election within 35 years of pension age will get roughly what they thought they would receive. Putting in place protection for these individuals is right: they have clearly participated in the labour market and have contributed. The difference between them and the wider group of people who would have relied on derived entitlement is that those people made an explicit deal with the state.[78]

Baroness Hollis described his position as "harsh and unfair". The women affected were going to lose their entitlement to a derived pension virtually overnight, with limited time to change their situation.[79]

Take-up of NI Credits

NI credits cover a range of circumstances in which a person may not be working, or working only a small number of hours, such as ill health and unemployment or caring for a child aged under 12 or someone with a disability.[80] In some cases, NI credits are awarded automatically, but in others an application needs to be made.[81] The introduction of Universal Credit is

[74] HL Deb 18 December 2013 c334. For the full debate, see c333-350
[75] Ibid c340GC
[76] Ibid c340GC; DEP 2014-0001
[77] Ibid c341 GC
[78] Ibid c342 GC
[79] Ibid c351 GC
[80] Ibid c329 GC
[81] See Gov.UK, National Insurance credits - eligibility; *Social Security (Contributions Credits for Parents and Carers) Regulations 2010* (SI 2010/19)

expected to increase the number of people covered by NI credits.[82] Details of the current arrangements are on the Gov.UK website: *National Insurance credits.* A DWP paper, *National Insurance credits and the single-tier pension,* explains the development of the current arrangements.

Lord Freud explained that the current crediting arrangements would continue:

> The existing arrangements provide for national insurance credits to cover a wide variety of contingencies and activities, as he acknowledged. They are generally available to people who are unable to work and pay contributions. This could be because they are unemployed, incapacitated or caring for others, but credits are also available to cover a range of other circumstances—for example, jury service or if an individual is employed but is in receipt of working tax credit.
>
> Credits protect a person's national insurance record and their future entitlement to benefits. Under the current system, all classes of credits protect the basic state pension, and in certain circumstances an earnings factor credit can be awarded to protect state second pension entitlement, mainly for caring responsibilities and long-term incapacity. I can confirm that the crediting arrangements will be brought forward to the new system and that people will still be able to get credits to protect their single-tier pension position.[83]

In debate on the Bill in the House of Lords, Opposition spokesperson Lord McKenzie called on the Government to report to Parliament on a strategy to improve take-up of NI credits.[84] Lord Freud responded the Government intended to review the NI credit system to identify what efficiencies could be put in place. It was also developing a communications strategy for the new pension system:

> For the vast majority of people, the take-up of credits is not an issue. They are awarded automatically to a person in receipt of certain benefits, such as child benefit for a child under 12, or carer's allowance.
>
> Many working-age benefits also provide automatic entitlement to credits, and under universal credit the crediting coverage will be extended further still as, in the case of a joint claim, both members of the couple will automatically receive credits.
>
> On the noble Lord's question about the difference between those that are automatic and those for which people have to apply, we are planning a review of the recording and operating systems to identify any improvements to be put in place to maximise take-up, and ensure that messages about applying are simple to understand. We are also working on a customer-focused communications strategy for the new pension system, which would include crediting arrangements. […]
>
> For these credits, which require an application, we want people to know what is available and to be getting all the credits they are entitled to in order to safeguard their future entitlement to the single-tier pension. Information is available in our departmental leaflets, and the gov.uk website clearly sets out the circumstances in which credits are available, as well as whether an application is required. But we are not complacent and we know that there are a number of different reasons why people do not take up credits. This is why we made it clear in the White Paper that the

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[82] 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, p16-17
[83] HL Deb 18 December 2013 c353-4GC
[84] Ibid c353GC

implementation of single tier provides us with an opportunity to simplify our recording and operating systems.

> With that in mind, we intend to review these systems to identify what efficiencies can be put in place to make the system of national insurance credits as simple as possible. We are also developing a comprehensive communications strategy for the new pension system and, as part of this, we are exploring with HMRC how we could seamlessly link information about state pension to information about national insurance through online services.

> The deficiency notices raised by the noble Lord inform people about gaps in their national insurance records and are not being sent out to those who reach state pension age on or after 6 April 2016. We cannot currently provide state pension statements that give accurate estimates of single-tier pension until the single-tier proposals are enacted, making it difficult for a contributor to decide whether to pay voluntary contributions. HMRC has publicised the fact that deficiency notices will not be issued for the time being. In the meantime, we are exploring with HMRC whether there are alternative ways in which we can provide customers with information about gaps in their record, including possible online alternatives.[85]

Lord McKenzie welcomed the fact that deficiency notices (alerting people to gaps in their NI record) would be reactivated once the April 2016 data was available.[86]

Level of single-tier pension

The White Paper explained that the single tier would be set above the level of Pension Credit Guarantee (£145.40 in 2013/14).The precise level of the single-tier would be decided prior to implementation.[87] **Clause 3** provides for the full rate of the new State Pension to be set in regulations which would be subject to the affirmative procedure in Parliament.[88]

Baroness Hollis moved an amendment proposing that the single-tier pension should be set at least 2% above the level of the Standard Minimum Guarantee in Pension Credit (£145.40pw in 2013/14).[89] Baroness Drake said confidence about the initial level of the single-tier and how its value would be maintained over time was needed if people were to have confidence about the assessments of gainers and losers. This was particularly important in view of the fact that the level would be set in regulations. The Delegated Powers and Regulatory Reform Committee (DPRRC) had drawn the attention of the House to the fact that "for the first time, the rate of the state pension will be specified only in subordinate regulation".[90] She also asked whether figures could be provided excluding people who had been contracted-out, in the hope that this would provide a "clearer picture of winners and lowers". Figures provided on a 'net' basis did not give a clear picture of gainers and losers because they did not include the elements of additional state pension entitlement paid by private schemes that are contracted out.[91]

Lord Freud responded that "every extra pound added to the start rate increases annual costs by £500 million in the 2030s." The regulations setting the start rate would be "subject to

85 Ibid c354
86 Ibid c355
87 DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013, p90
88 Clause 49 (2); For detail of the affirmative procedure, see House of Commons background paper – statutory instruments
89 HL Deb 16 December 2014 c232GC
90 DPRRC, 13th Report 2013-14, HL Paper 83, paragraphs 1-3
91 HL Deb 16 December 2014 c234-6GC

affirmative resolution and will therefore be debated in this House." He confirmed that the analysis of notional gainers and losers had been done on a net basis. He would write to explain further the Government's thinking on this point.[92] Baroness Hollis indicated an intention to return to the issue.[93]

Baroness Turner moved an amendment proposing a higher starting level for the single-tier. This would be:

> […] broadly equivalent to the state pension entitlement that a person with 40 qualifying years could receive under the current scheme through their basic state pension and the additional state pension. For someone on low earnings, that equates to around £180 a week.[94]

The suggestion had come from her discussions with Unite, whose policy was for the restoration of an earnings-related state pension to supplement a higher level of basic State Pension. Baroness Turner accepted that the Bill under consideration provided for a single-tier pension but argued that it needed to be set at a higher level to represent a genuine improvement to the current system.[95]

Lord Freud responded that setting a minimum starting level of £180 a week would add a further £12 billion pa in real terms to the costs by 2030. He added that the start rate of the single-tier should not be viewed in isolation but in combination with "the private pension income that some 6 million to 9 million people will gain from having been automatically enrolled in a workplace pension."[96]

Uprating

Schedule 12 (14) provides for the uprating arrangements for the single-tier pension to reflect those for the current basic State Pension (i.e. to be increased at least in line with earnings).[97] The Government is committed to uprating the basic State Pension according to the "triple guarantee" of the highest of prices, earnings or 2.5% for the duration of this Parliament.[98] The precise level of the single-tier is to be decided prior to implementation.[99]

Lord McKenzie moved an amendment to require a calculation of any difference between actual uprating and that which would have applied under the triple guarantee.[100] He said:

> As we discussed briefly on Monday, by 2060 the share of GDP, compared to the current position, would fall by 0.6% if uprated by the triple lock but by 1.3% if uprating was just by earnings. Over the long term, the cumulative effect of uprating by earnings rather than the triple lock would lead to STP being 10% lower than if uprated by earnings.[101]

Lord Freud said he saw no advantage in committing in legislation to providing a relatively straightforward calculation:

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92 Ibid c238-9GC [DEP 2014-0266]
93 Ibid c241GC
94 HL Deb 18 December 2013 c313-9GC
95 Ibid, c313GC
96 Ibid c317-8GC
97 Bill 55-EN-para 43
98 The Coalition: our programme for government, May 2010
99DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013, p90
100 HL Deb 18 December 2013 c356
101 Ibid c356

> The Government do not want to constrain future Administrations by placing a requirement to uprate by the triple lock in primary legislation. It must be up to future Governments to decide, based on their annual reviews, whether uprating above the minimum of earnings is applied.[…] The annual uprating process for the state pension is transparent, based on a review made by the Secretary of State with reference to the general level of earnings and the overall economic situation. The indices for earnings and prices are published by the Office for National Statistics before the uprating decision is announced and are readily available. As a result, we see no advantage in committing in legislation to providing a relatively straightforward calculation.[102]

Entitlement to state pension at a transitional rate – contracting-out

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.[103] Transitional arrangements are needed to protect those who will have already accrued more than the amount of the single-tier pension in April 2016 and to take account of periods of contracting-out.[104]

Lord Whitty argued that transitional protection arrangements were needed for members of public service schemes, with implementation of the single-tier delayed for this group until 2018. This would enable more time to adjust to the increase in NI contributions that would result from the abolition of contracting out.[105] Lord Freud responded that this would not be fair, either to public sector employees, who would remain in the current scheme, or to private sector workers, who would be treated differently. The question of whether the budgets of government departments would be adjusted to compensate them for the resulting increase in their NI payments would be considered as part of the spending review in the next Parliament.[106]

Baroness Turner drew attention to a disparity in the position of people who had been contracted-in and people who had been contracted-out. This was due to the fact that a deduction (a 'rebate-derived amount') will be made to the single-tier pension of people who have been contracted-out. However, from April 2016, they will start to pay NI at the same rate as other employees and to accrue rights to the single-tier in the same way. This meant that they would be able to increase their single-tier pension up to the full level, at the rate of 1/35th of the full rate for each additional qualifying year before SPA.[107] However, an individual who has been contracted-in throughout working life and already has 35 qualifying years cannot increase their single-tier entitlement. Baroness Turner argued that they should be able to:

> The idea of the amendment is to limit the loss of future rights to accrue for the contracted-in employees and to put them on an equal footing with contracted-out employees.[108]

Lord Freud responded that it would not be a single-tier pension if people were able to increase their entitlement above the full amount post-implementation.[109]

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[102] Ibid c358
[103] Bill 55-EN para 40-41
[104] PBC Deb 2 July 2013 c145-6 [Steve Webb]
[105] HL Deb 18 December 2013 c359-361GC
[106] Ibid c368-70GC
[107] See section 4.6 RP 13//37 Pensions Bill; DWP, The single-tier pension: a simple foundation for saving, January 2013 (Cm 8528), p11, para 24
[108] HL Deb 8 January 2014 c371GC

Transitional rate of state pension - uprating of the 'protected payment'

Where, at implementation, an individual has a 'foundation amount' which is higher than the full level of the single tier pension, they "will get the full level of the single-tier pension, and keep any amount above this as a 'protected payment' when they reach State Pension age."[110] Schedule 1 provides for the revaluation of the foundation amount up to State Pension age:

> 49. Schedule 1 also provides for the revaluation of the foundation amount prior to pensionable age. The value of the foundation amount up to the full rate of state pension is to be revalued by earnings or higher (as with the state pension rate – see paragraph 36). Any excess over that rate will be revalued in line with the annual increase in the general level of prices.[111]

Baroness Turner argued that the same uprating arrangements should apply to the protected payment as to the full amount of the single-tier.[112] Lord Whitty agreed, saying it was an issue of fairness.[113] Lord Freud responded that:

> As this is a cost-neutral package of reforms, we would need to make offsetting changes elsewhere. Given that we expect most people to be better off from the combined revaluation and uprating changes, this would be difficult to justify.[114]

Shared State Pension on divorce

Clauses 13 to 15 and Schedules 8 to 11 make provision relevant to pension sharing on divorce.[115] Under current rules, the additional State Pension can be shared, but not basic State Pension. Pension sharing will not apply to the single-tier. However, existing orders will be honoured and the rules would allow sharing of protected payments where these are awarded.[116] Baroness Hollis argued that the Government should take steps to raise awareness of this.[117] Lord Freud said people would be able to request pension statements. Pension credits or debit from pension sharing would be identified on request:

> If someone is the beneficiary of a pension share order they receive a pension credit. The person the order is made against is subject to a corresponding debit. State pension credits are normally awarded and debits applied from state pension age. If the order is made after state pension age, the payment is increased or decreased at that point. As under the current system, single-tier pensioners who have a state pension debit or credit will be informed of the weekly addition or deduction when the court order is implemented. Individuals will be able to ask for statements of their state pension, but the pension credits or debits would be consolidated within the individual's single-tier payment or protected payment and so not identified as credits or debits. As now, these elements could be identified on request but I am informed by the department's pension sharing administrators that no one can recall ever receiving such a request.[118]

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109 Ibid, c374-5GC
110 Schedule 2; DWP, *The single-tier pension: a simple foundation for saving*, Cm 8528, January 2013, Chapter 4
111 Bill 55 EN – para 56
112 HL Deb 8 January 2014 c375GC
113 Ibid c375GC
114 Ibid c378GC
115 Bill 55 EN-para 75-85; For more information, see section 4.8 RP 13/37 Pensions Bill.
116 DWP, *The single-tier pension: a simple foundation for saving*, Cm 8528, January 2013
117 HL Deb 8 January 2014 c379GC7GC
118 Ibid, c383GC; DEP 2014-0032

State Pension deferral

People currently have the option of deferring claiming their State Pension beyond State Pension age. In return, they may receive a higher State Pension or a lump sum.[119] Deferral will still be an option under the single-tier. However, the rate at which extra pension accrues as a result will be lower than at present, and there will no longer be the option of a lump sum.[120]

Lord Browne asked why the Bill provided for restrictions on the circumstances in, and the number of times, individuals could opt to defer.[121] Lord Freud responded that:

> Allowing people to de-retire later in life increases the risk that they will not live long enough to break even. It would only really make sense for people who would see a significant tax benefit from not claiming their state pension for certain periods of time. Having the option to suspend their state pension once strikes a balance between giving people the flexibility to return to work and manage their tax position after claiming their state pension and ensuring the system remains as simple as possible.[122]

Flexibility was needed to respond quickly should the need arise to amend the scheme, "for example, if there is a group of people to whom it would be inappropriate to offer the opportunity to improve their pension once it was been claimed."[123]

Baroness Hollis argued that the lump sum option should not be removed:

> It may be the only opportunity a couple or an individual—but more likely a couple—get of acquiring any capital before they go into full-time retirement. If they have an occupational pension, they are likely to get perhaps the capital of a 25% tax free lump sum. If they are reliant only on the state pension, they have no such access to capital at alll.[124]

She was supported by the Bishop of Chester, Lord Hutton, Lord McKenzie and Lord Browne.[125] Lord Freud responded that removing the lump sum option accounted for 85% of the overall deferral savings for 2030 (i.e. between £250 and £300 million by 2030).[126] He said that people who deferred for up to twelve months could take their arrears as a lump sum (because the time limit for claiming the state pension is twelve months). He would think further about this and write to Members of the Committee.[127]

At Report Stage, Baroness Hollis moved an amendment to retain the option of a lump sum for who had deferred their State Pension. She stressed the importance of pensioners having savings to meet unexpected costs. She did not accept the Government's argument that the removal of the lump sum was a simplification measure.

> The Government propose to abolish the choice of taking that saved-up pension as a lump sum; it will be available to people only as an addition to the state pension. They

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[119] 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).

[120] DWP, The single-tier pension: a simple foundation for saving, January 2013 (Cm 8528), para 111-2

[121] HL Deb 8 January 2014 c385GC

[122] Ibid c386GC

[123] Ibid

[124] Ibid c388-9GC

[125] Ibid c389-94

[126] Ibid c394GC; DWP, Single-tier impact assessment, October 2013, para 95

[127] Ibid c398GC; DEP 2014-0032

> are removing the choice of a savings sum from future pensioners. Currently, of the 1.2 million who defer their pensions, 63,000 take the lump sum, which was, on average, just under £14,000. In future, that option will be scrapped. Why? The Minister for Pensions, Steve Webb, is absolutely clear that he is doing it to "simplify the system". It is not about costs at all, he says, just about simplicity. What is so difficult to understand about a lump sum of your two years or so deferred pension?[128]

Baroness Sherlock asked if the Government was clear about the implications of the change and if the Minister could explain clearly why they were doing this.[129]

Lord Freud responded that the removal of the lump sum option had played a "key role in flattening expenditure". The "early-year savings" that this delivered had been "ploughed back into the single-tier design." People would still have the option of delaying their claim for 12 months and receiving the arrears as a lump sum (although there would be no interest on the arrears).[130] Baroness Hollis hoped Ministers would ensure people were aware they could take their pension lump sum in arrears after 12 months. She was disappointed by the reply but withdrew the amendment.[131]

Overseas residents

The UK State Pension is payable overseas, but is only uprated annually to UK pensioners living in European Economic Area (EEA) countries[132] or in countries where there is a relevant reciprocal agreement.[133] **Clause 20** provides the regulation-making power for the current policy to continue.[134]

At Second Reading, Lord German asked the Minister how many Governments had offered to enter into reciprocal agreements with the UK on the uprating of pensions.[135] In a written response, Lord Freud said:

> In the past decade the UK Government has received a number of requests to enter into reciprocal agreements covering up-rating. In some cases, there was insufficient parity between the respective systems to provide the required reciprocity. The Government has not entered into any wholly new agreements since 1981, principally on the grounds of the costs involved and because it would lead to calls from other countries to negotiate similar agreements. In recent times, there have been requests from Columbia (2008), Mongolia (20007), Thailand (2010), Uruguay (2011) and Brazil (2011).
>
> In recent months the Government has received representations from both Australia and Canada in which they raised the issue of up-rating the UK State Pension. Those two countries represent by far the largest proportion of recipients in countries where the UK state pension is not index-linked and indexation would present a considerable cost to the Exchequer, particularly considering the wide disparity in the number of

[128] HL Deb 24 February 2014 c776
[129] Ibid c777
[130] Ibid c778
[131] Ibid c781
[132] Article 11 of Council Regulation (EEC) no 1408/71. EEA countries are. European Union members together with Norway, Iceland and Liechtenstein
[133] HC Deb, 16 Oct 2008, c1374; For more detail, see Library Note SN 1457 Frozen overseas pensions
[134] Bill 55 EN-para 89-91
[135] HL Deb 3 December 2013 c151

> pensioners involved. The Government has therefore informed the Australian and Canadian governments that it will not be opening formal discussions on this policy.[136]

At Committee Stage, Lord German asked whether the possibility of entering into new reciprocal arrangements should be investigated, to see if there was any mutual benefit in such an approach.[137] Lord Freud responded that:

> We are aware of research that suggests that a theoretical and economic case can be made to support the uprating of state pensions for all recipients abroad. However, it is notable that this analysis has not been able to provide evidence of a proven behavioural link between uprating and pensioner migration. In fact, we think it unlikely that any review would demonstrate that. In any case, the decision to emigrate abroad remains a personal choice for individuals. In the absence of that kind of evidence, we know that the cost of extending the uprating of pensions currently paid overseas remains significant at more than £0.5 billion per annum. The Government, like their predecessors over the past 60 years, believe that they must put the interests of pensioners living in the UK over the interests of those living overseas by restricting the availability of uprates to those living here or in a country where we have a legal or treaty obligation to provide them.[138]

He explained that the Government was in the process of updating and quality assuring its estimate of the cost of unfreezing pensions for 2014/15.[139]

Clause 23 - amendments

Clause 23 and Schedule 12 provide for a number of amendments to other legislation relating to the introduction of the new state pension. 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.

Abolition of Savings Credit - passported benefits

Lord McKenzie raised the issue of the knock-on effect on passported benefits for those who would no longer be eligible for Savings Credit:

> So far as the passporting of benefits is concerned, under current arrangements most depend on guarantee credit. However, receipt of the savings credit can unlock access to such benefits as cold weather payments, affordable warmth obligations of energy companies and, until abolition, working tax credit and child tax credit. How many pensioners will have no access to cold weather payments under STP who would have under the current arrangements? How much money are the Government saving by this, and are there plans to put in place any alternative arrangements?[140]

Lord Freud said the Government estimated that 80,000 people who would otherwise have been claiming Pension Credit in 2020 would be taken out of the scope of cold weather payments.[141]

Lord McKenzie returned to the issue at Report Stage, tabling an amendment calling for:

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[136] DEP 2013-1970
[137] HL Deb 8 January 2014 c401-2 GC
[138] Ibid c409GC
[139] Ibid c408GC
[140] Ibid c412GC
[141] Ibid c416GC

> […] a report to Parliament on alternative arrangements for accessing cold weather payments and the warm home discount currently available to recipients of Pension Credit. I seek an explanation of what is to happen to those who reach state pension age on or after 6 April 2016 because, for such individuals, the savings credit is abolished and some will see the substitution of a single-tier pension for an income which is currently topped up by the Guarantee Credit.[142]

Lord Freud said the Government was considering ways in which it might be possible to identify, for cold weather payment purposes, single-tier pensioners whose income will be above but close to the level of the standard minimum guarantee:

> Cold weather payments are made to people who receive certain income-related benefits and satisfy the eligibility conditions set out in the *Social Fund Cold Weather Payments (General) Regulations 1988.* All those who receive pension credit are eligible, whether they receive the guarantee credit or the savings credit element, or both.
>
> Our predicted expenditure on cold weather payments is based on the average number of payments over the past 10 years. On that basis, while we cannot predict the actual impacts, we might expect around £2 million to have been spent in 2020 on cold weather payments for people who would have received pension credit under the current system, but who would not under the single -tier system. That is based on our calculation of 20,000 single-tier pensioners being raised above the standard minimum guarantee, and 60,000 who would have been entitled to a savings credit under the pre-single tier system.
>
> That expenditure is of course by no means certain, which is why we have not assumed any savings from cold weather payments as a result of the Bill. However, we are not complacent about that issue and that group of people. That is why we are already considering ways in which it might be possible to identify, for cold weather payment purposes, single-tier pensioners whose income will be above but close to the level of the standard minimum guarantee.[143]

Regarding the warm homes discount scheme, the Government had not yet made plans for 2016/17 and beyond:

> The noble Lord, Lord McKenzie, also asked about the warm home discount scheme. That is a rebate on electricity bills for pensioners aged 75 or over who receive the guarantee credit in pension credit, and for pensioners under 75 who receive the guarantee credit without a savings credit. From 2014-15 it will be extended to all pensioners receiving the guarantee credit. Rebates may also be available for a broader group including those in receipt of the savings credit as well as certain other groups below pension age, but those broader group rebates are subject to a cash limit and to the policies of individual suppliers, as agreed with Ofgem. We have committed to extending the warm home discount scheme into 2015-16, but we have not made plans for 2016-17 and beyond.[144]

Lord McKenzie withdrew his amendment.[145]

Pension Credit – mixed age couples

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[142] HL Deb 12 March 2014 c1763
[143] Ibid c1767
[144] Ibid c1768
[145] Ibid c1769

Lord Browne asked about the impact on mixed-age couples, where one reaches State Pension age before 6 April 2016 and the other after.[146] Lord Freud responded that:

> A key principle of the reforms is to remove access to savings credit for single-tier households, which includes couples where one reaches state pension age before 6 April 2016. We need to balance the fairness between recipients and taxpayers in dealing with the conflict between the individual basis of the single-tier pension and the household basis of the savings credit. However, we will allow those mixed-age couples already in receipt of savings credit on 6 April to retain it, if they continue to meet the eligibility conditions.[147]

Marriage (Same Sex Couples) Act 2013
The Government made a minor and technical amendment to Schedule 12, consequent upon *the Marriage (Same Sex Couples) Act 2013*.[148]

Abolition of contracting-out

Statutory over-ride
It is currently 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 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. Employees who are members of, and employers who sponsor, contracted-out schemes will face an increase in their NICs as a result.[149]

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. **Schedule 14** would provide employers with a limited 'statutory override' of scheme rules, to enable them to make changes to adjust for the additional NI cost.

Baroness Drake raised concerns about the sufficiency of protections regarding the operation of the over-ride, arguing that there should be an explicit requirement to consult the trustees. Furthermore, she said there were still questions about how the amount employers would be able to recoup would be valued:

> We have no clear indication from the Government about how they will value what it is that can be recouped. As I asked when speaking the other day, is it the net or the gross loss? Will it be crystallised in terms of the 2016 value of the rebate? These are quite significant issues. On one level, setting out some actuarial assumptions in the regulations may be a good thing, although we would perhaps want to see the actuarial assumptions first. But we have no way of seeing them and when we do, the regulation will be subject to the negative procedure.[150]

Lord Freud responded that "the intention is that the current rebate rate of 3.4% will be used for these calculations".[151] Baroness Drake was concerned that:

> Employers will be allowed to recoup the value that is crystallised in 2016, but everyone knows that if there had not been changes the post-2016 value would have gone down.

146 HL Deb 8 January 2014 c413 GC
147 Ibid c414GC
148 Ibid c417GC
149 DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013, Chapter 3, para 72
150 HL Deb 13 January 2014 c5-6GC
151 For further detail, see DEP 2014-0032 and DEP 2014-0001

> In addition, the employer's NI charges are an expenditure that can be taken into account and set against tax. If those two elements are not built in, is that not a little unfair in term of the rules for recoupment—a little imbalanced?[152]

The Government was consulting stakeholders on regulations to implement the provisions. These would not be ready to present to Parliament until May or June. They would be subject to the negative parliamentary procedure.[153]

The Government made a consequential amendment to clause 24.[154]

At Report Stage, Lord Whitty moved an amendment to ensure that:

> The rights of trustees are protected and that their legal responsibilities are recognised; that the trustees will be involved in any alteration of the scheme; and that consultation will be conducted in accordance with the terms of the scheme.[155]

Lord Freud responded that employs would need to find ways to recoup the costs that the loss of the contracted-out rebate would bring. The override provided for limited changes to future accruals and/or future contributions where the scheme rules would otherwise prevent that. It did not permit employers to ignore other rules about how the scheme operates:

> For example, it does not mean that an employer can avoid notifying trustees or members of a change, or refuse to carry out a consultation, if scheme rules would require this. Indeed, existing legislation requires that members are consulted on any significant rule changes before they are made[…] that will remain the case.[156]

There were safeguards in the legislation:

> Schedule 14 provides important safeguards, such as limits on the use of the override to prevent an employer from making changes beyond those necessary to recoup their increase in national insurance contributions, the need for an actuary to certify the changes and protection for members' accrued rights. We will put further safeguards in regulations—for example, to ensure that the employer cannot create their own assumptions for the purposes of the calculation but must draw on existing assumptions used by the scheme.[157]

Lord Whitty remained concerned that the Government had effectively "overridden the governance structure of work-based occupational schemes by attacking the very fundamentals of trusteeship." He withdrew his amendment.[158]

Protected persons

In March 2013, the Government launched a specific consultation on whether the statutory over-ride should include members covered by the 'protected persons regulations.'[159] Lord Browne asked when the Government would issue its response to the consultation on

[152] HC Deb 13 January 2014, c10-11GC
[153] Ibid, c3GC
[154] Ibid c13GC
[155] HL Deb 24 February 2014 c799
[156] Ibid c803
[157] Ibid c803; See also DEP 2014-0032
[158] Ibid c807
[159] DWP, Abolition of contracting out – consultation on a statutory override for Protected Persons Regulations, January 2013; These were regulations that had been in place when some nationalised industries were privatised in the 1980s and 1990s, requiring the new private sector employer to continue to provide pension benefits for existing scheme members that were at least as good as those they were receiving in the public sector.

protected persons.[160] Lord Freud agreed that it would be "most unusual" if the Government were not able to notify Parliament of their decision before the Bill completed its passage.[161]

On 12 February 2014, the Government announced that it would honour the promises made at privatisation:

> We had to consider the best and fairest course of action in an area where the arguments are both finely balanced and highly polarised. The Government has decided that it should honour the promises that were made at the time of privatisation and which, in many cases, have been affirmed by Government Ministers subsequently. The Government thinks it is reasonable that issues arising from the end of contracting out for this small number of workers should be resolved through negotiation. Therefore the Government proposes that employers should not be allowed to use the statutory override to alter their pension schemes in relation to members with protected person status.[162]

It amended the Bill to this effect at Report Stage. Lord Freud explained:

> I turn now to Amendment 14, tabled in my name. This relates to the long-awaited response—long-awaited by the noble Lord, Lord Browne, if no one else—to the protected persons consultation. It provides that protected persons are excluded from the scope of the statutory override. Noble Lords will be aware of a small group of approximately 60,000 individuals employed on the railways, including by Transport for London, and in the electricity, coal, nuclear waste and decommissioning industries who were given guarantees at the time of privatisation. Legislation passed at that time limits employers and trustees in their ability to change scheme rules.
>
> The Government consulted on whether employers should be permitted to use the statutory override in respect of these workers and published the outcome earlier this month. This is a finely balanced issue where the arguments are highly polarised. We received many responses with strong views expressed on both sides and from many different and conflicting interests. On one side, we were strongly urged to honour the promises made to this small group of individuals at the time of privatisation. On the other, employers and their representatives argued that it is important for all scheme members to be treated the same way when contracting out ends and said that, if protected persons are excluded, they would seek other ways to offset the loss of the national insurance rebate.
>
> The Government have decided to honour the promises made at the time of privatisation, which in many cases have been subsequently reaffirmed by Ministers. Due to the interest expressed in the outcome of this consultation, my Amendment 14 seeks to make explicit the exclusion of protected persons from the scope of the statutory override. Regulations will specify who is considered a protected person in relation to the affected schemes. We intend to set this out to capture those persons who we described in our consultation response. In that response, we set out that we are aware that relevant legislation covers protected persons in the electricity, nuclear waste and decommissioning, coal and rail industries, including Transport for London. The gas workers, who were mentioned by the noble Lord, Lord Whitty, are not

[160] HC Deb 13 January 2014, c10-11, GC9
[161] Ibid GC11
[162] HC Deb 12 February 2014 c61-2WS: DWP, Abolition of contracting out: statutory override for Protected Persons – Government response to public consultation (February 2014).

> protected by statute. The matter of the gas workers was consulted on and the current intention is to exclude people protected under legislation.[163]

State pension top-up

At Committee Stage, the Government added a new clause to the Bill, to provide for the new class of VNICs – class 3A – that had been announced in the Autumn Statement.[164] It published a paper setting out the policy in more detail and a supplementary memorandum to the DPRRC to explain the amendment. It also produced a supplementary memorandum for the DPRRC explaining the amendment.[165]

Lord Freud explained that the intention was to give people reaching State Pension age before 6 April 2016 the opportunity to increase their state pension entitlement. The scheme would start in October 2015 and run for a limited period:

> We have dealt with a great deal of complexity as we have discussed the transition provisions. These are intended to respect past contributions by giving people reaching state pension age on 6 April 2016 onwards the higher of the value of their national insurance record calculated under both single tier or old scheme rules. As a result of this calculation, many people retiring in the early years of the single tier will have their pension boosted using new-scheme rules. So a woman with 30 qualifying years and £10 of state earnings related pension scheme in 2016 would get £123.30 of single-tier pension, which is around £6.30 a week more than under the old scheme rules. As illustrated here, the groups who will benefit most are those who have only modest amounts of additional state pension, if any at all. These tend to be, in the main, women and the self-employed whose social and economic contributions were not captured in SERPS and are not fully reflected in the state second pension.
>
> As set out in these amendments, we now want to give existing pensioners and those reaching state pension age before 6 April 2016 the opportunity to boost their additional state pension by paying a new class of voluntary national insurance contribution: class 3A. The intention is that a unit of additional pension, obtained by paying the class 3A contribution, will provide £1 a week of extra pension. The extra pension itself will simply be added to people's state pension. The intention is for the scheme to start from October 2015 and run for a limited time of between 18 months to two years. There are just two entitlement conditions to class 3A—entitlement to a UK pension and that the person reaches state pension age on or before 5 April 2016.[166]

Decisions left for regulations included whether there should be a cap, perhaps of £25 a week; how long the scheme should be open and whether people should have a cooling-off period after paying class 3A contributions. The cost would be set on "actuarially fair terms":

> I turn now to costs. As noble Lords will know, covering basic state pension gaps through existing class 3 is relatively cheap. A person paying class 3 to acquire one qualifying year of basic state pension will get their money back within four years of reaching state pension age. A different approach is required for class 3A to ensure that the arrangements do not become a burden for today's national insurance contributors. So the costs of class 3A, which will be set by the Treasury, will be based on actuarially fair terms, in consultation with the Government Actuary's Department. In keeping with

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163 HL Deb 24 February 2014 c805GC; See also DEP 2014-0210
164 HM Treasury, Autumn Statement 2013, Cm 8747, 5 December 2013, para 2.56
165 DWP, Class 3A Voluntary National Insurance – policy detail, December 2013; DEP 2013-2001
166 HL Deb 13 January 2014 c12GC

> this, the cost will be adjusted to reflect the age of the pensioner at the time they pay class 3A.[167]

The Government hoped to have the pricing details "bottomed out" by the time of the Budget.[168]

Administrative arrangements would be put in place to ensure that individuals applying to pay new class 3A contributions are made aware that they should first check their eligibility to make class 3 contributions.[169]

Lord McKenzie said this was "effectively an annuity arrangement." He asked about the explanations and information people would be given to help make a decision on whether to pay.[170] Lord Browne asked about the likely take-up and implications for government expenditure.[171] Baroness Hollis asked about the likely impact on the numbers claiming Pension Credit.[172] Lord Freud responded that work on the proposals was ongoing. The Government would bring regulations back to the House and at that time would have the details required for a fully informed debate.[173]

3 State Pension age

At Second Reading, Lord Freud explained that the Bill included provision to bring forward the increase in the State Pension age (SPA) to 67 to 2026 and 2028. It would also establish periodic reviews for future increases in the SPA, in line with increasing life-expectancy:

> In addition to reforming the state pension system to make it simpler, the Government are taking action on state pension age to ensure the system remains affordable and fair between generations in light of continuing increases in life expectancy across all socioeconomic groups. The *Pensions Act 2007* set the original timetable for increasing the state pension age to 66, 67, and 68. Since then, the average life expectancy of a man reaching age 65 in 2013 has increased by over a year. We are therefore bringing forward the increase in state pension age to 67 by eight years, so that it gradually increases from 66 to 67 between 2026 and 2028. No one will experience a rise in state pension age of more than 1 year compared to the original timetable that was set by the Pensions Act 2007 and I can assure noble Lords that this will not affect anyone whose pension age was changed by the *Pensions Act 2011.*
>
> The fact that people are living longer is to be welcomed. Yet continued increases in life expectancy place a great deal of pressure on the pensions system. The Bill therefore also provides for a regular review of the state pension age so that is it considered once every Parliament. This will ensure that the state pension age is examined in an open and transparent way on a regular basis and prevent future Governments from needing to take emergency action. As part of these reviews, the Government of the day will ask the Government Actuary and an independently led review to report on life expectancy and a whole range of other factors relevant to setting the state pension age. The Government will then consider what adjustments, if any, should be made to pensionable age. This is not an automatic mechanism for future increases, however,

[167] Ibid c13GC
[168] Ibid c21GC
[169] Ibid c13GC
[170] Ibid c14GC
[171] Ibid c18GC
[172] Ibid c19GC
[173] Ibid c21GC

> and any resulting proposals to change the state pension age would still need to be set out in primary legislation.[174]

Baroness Sherlock said the Opposition agreed with the need for periodic reviews of the SPA, although it thought these should be overseen by a cross party-panel with a broad remit:

> It should be tasked to consider not just the latest trends in life expectancy and the long-range public expenditure issues but also, for example, differences in life expectancy for different socioeconomic groups and the degree to which health and ageing go hand in hand.[175]

3.1 Increase to 67

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.

Baroness Turner was concerned that, although some people liked their jobs and wanted to go on working while they could, this was not the case for everyone. Some worked in industries involving strenuous and often hazardous work. Others had dreary jobs from which they longed to retire.[176]Baroness Sherlock said that, although the Opposition agreed with the principle of raising the State Pension age to reflect longevity, the points raised required careful consideration.[177]

Lord Freud responded that "it was only fair that those enjoying the benefits of longer life expectancy pay a share of the associated costs". Clause 25, combined with the regular review mechanism in clause 26 would "help ensure the fairness and affordability of the system into the medium and long term."[178] He explained the impact of clause 25 as follows:

> Bringing forward the rise to 67 by some eight years will affect around 8 million men and women born between 6 April 1960 and 5 April 1969: people who are now aged between about 44 and 53. As with previous increases in state pension age, the transition to the higher age will be phased in gradually: men and women born between 6 April 1960 and 5 March 1961 will have a state pension age of between 66 and 67, and those born between 6 March 1961 and 5 April 1969 will have a state pension age of 67. Those born after 5 April 1969 will not be affected by this change because they already have a state pension age of 67 or 68, or somewhere in between the two, as legislated for in the Pensions Act 2007. The proposals in this clause mean that the maximum increase that any individual will experience in their state pension age, in relation to the Pensions Act 2007, is one year. By starting the transition to age 67 in 2026, no one who was affected by the Pensions Act 2011 will have their state pension age changed again by the measures in this Bill. To help people prepare for the change, we announced these proposals back in November 2011, giving the first cohorts affected more than 14 years' notice.[179]

3.2 Periodic reviews

Clause 26 makes provision for a periodic review of the SPA in the light of changes in life expectancy and other factors.

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[174] HL Deb 3 December 2013 c140
[175] Ibid c146
[176] HL Deb 13 January 2014 c22-23GC
[177] Ibid c23-24GC
[178] Ibid c24GC
[179] Ibid c24-25GC

Baroness Hollis moved an amendment to propose that the Secretary of State, in reviewing the State Pension age, should be required have regard to certain factors in addition to life expectancy. These were factors that the January 2013 White Paper had said the Government expected to be considered: “evidence of variations in life expectancy by region, gender, occupation, socio-economic class, healthy life expectancy, alternative ways of measuring life expectancy and its impact on the labour market.”[180] She said there was little point in raising the SPA if people did not stay in the labour market but lingered “longer in the twilight of inadequate working age benefits.” At the moment, men who left the labour market early through unemployment or ill-health were protected by the option to claim Pension Credit from the time they reach the SPA for women. However, this would disappear as the SPA was equalised.[181] She denied there was a “crisis of affordability”:

> What matters, therefore, when we consider the cost of state pensions is their percentage of GDP, which over the next 20 years will actually fall.[…]The crisis of affordability is simply not the case. Apart from half of it, which is due to the temporary baby-boomer bump, we have one of the best ratios among OECD countries, and we have affordable choices that we can make. We never hear those spelt out in any debate; there is simply a mechanistic argument that, as longevity increases, we have to raise the state pension age, without considering what is going on over time with the situation for older people.[182]

She was concerned at inequalities in healthy life expectancy:

> ONS figures show that it is already the case that the most deprived one-fifth of men have a healthy life expectancy of only 55 years, 15 years lower than the more affluent. As my noble friend Lady Turner said, that is why a one-size-fits-all state pension age is profoundly unfair.[…] We are where we are now but as we expect to raise the state pension age, as the Government propose, those considerations should come into play. Those people do not enter the labour market at the same time and do not leave it at the same time, so why do we expect that they should draw a pension at the same time?[183]

Lord Whitty shared her concern and argued that consideration should be given to whether special provision should be made for those with lower life expectancy.[184]

Baroness Drake asked whether the age of eligibility for Pension Credit should be lower than the state pension in order to support people for whom working longer was problematic. Consideration should also be given to tackling the barriers to tackling higher labour market participation by older workers. For example, older women were increasingly looking after elderly parents or grandchildren. [185]

Lord Stoneham said there needed to be a uniform pension age. Factors such as health inequality would be taken into account in the periodic reviews.[186]

Baroness Sherlock supported the proposal that more of the factors to be taken into account should be set out in the Bill, on the basis that it:

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[180] Ibid c25GC
[181] Ibid c27GC
[182] Ibid c28GC
[183] Ibid c28-9GC
[184] Ibid c31GC
[185] Ibid c33GC
[186] Ibid c35GC

> […] would then at least put the review process for setting the state pension age in the position of having to tackle all these complicated issues and making some recommendations to government on which we could all, I hope, place some store.[187]

Lord Freud responded that allowing early access to the single-tier would undermine its simplicity as a pension claimed early would have to be actuarially reduced. He did not want to be "too prescriptive in setting out factors that must be looked at each review."[188] Baroness Hollis indicated an intention to return to the issue at Report.[189]

Baroness Drake moved an amendment to provide for a report on the periodic review of the pension age to be prepared by an independent commission.[190] Baroness Sherlock argued that cross party consensus was needed on how to set the pension age and that a review panel, with representatives of a wide range of interests in society, including employer and employee representatives and representatives of different parties and cross-benchers would help to achieve this.[191]

Lord Freud responded that the Government did not think "prescribing a committee [was] the right way to go." Neither did it want to send up a permanent or standing commission:

> That kind of structure is simply not necessary for a review that will come together and publish a report on a single issue, wide-ranging though it may be. It would be for the Government of the day to put forward proposals resulting from the reports and to present any legislation to Parliament. Responsibility for publishing any overall report on the outcome of the review therefore had to remain with the Secretary of State.[192]

At Report Stage, Baroness Turner moved an amendment that would require periodic reviews of the SPA to consider "the type of work undertaken and the degree to which this may impact on health and life expectancy".[193] Baroness Sherlock said that the issue should be considered by a genuinely independent panel, with cross party and independent representation.[194] Lord Freud responded that the key point was to get future Governments to take active ownership and responsibility for all aspects of the review. He did not think the Bill should be too specific about the issues that future reviews should consider:

> There is nothing in the Bill to prevent the Secretary of State of the day updating the remit of the review, and we—or, more importantly, stakeholders—would fully expect him or her to do just this if new and compelling factors were identified during the course of the review.[195]

The Government produced a note for Peers on the State Pension age review for Report Stage and a paper on Equality in Life Expectancy and Healthy Life Expectancy.[196]

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[187] Ibid c38GC
[188] Ibid c39GC
[189] Ibid c44GC
[190] Ibid c45GC
[191] Ibid c23-4 and 48-9GC
[192] Ibid c49GC
[193] HL Deb 24 February 2014 c808
[194] Ibid c809
[195] Ibid c810
[196] DEP 2014-0044

4 Pension Credit – Assessed income periods

Clause 27 provide for assessed income periods (AIPs) to be phased out from April 2016. **Clause 28** would ensure that existing indefinite AIPs remain in place indefinitely. The Explanatory Notes say:

> The AIP is a feature of state pension credit that removes the requirement for certain individuals to notify the Department for Work and Pensions of changes to retirement provision (broadly defined as capital, annuities and retirement pension) for a defined period, for the purposes of assessing their entitlement to state pension credit. From 2016, any change in retirement provision must be reported when it occurs, triggering an immediate review and change of the benefit award where appropriate. The removal of the AIP will apply to new customers and there is a power to apply it to those existing customers with a 5-year AIP already in place at April 2016 (the latter will be gradually phased out in the first few years). Customers with an indefinite AIP already in place on 6th April 2016 will be unaffected as their AIP will remain in place until it ends under existing rules.[197]

In a debate on whether clause 27 should stand part of the Bill, Lord Freud said it was "right that benefit awards reflect the individual's current financial circumstances":

> In the current economic climate, we believe it is right that benefit awards reflect the individual's current financial circumstances. We therefore propose to abolish assessed income periods by removing them for new claimants and phasing out existing fixed-term ones from April 2016. It is estimated that this measure will result in steady-state savings in AME of around £80 million per year in the long term. We recognise that removing assessed income periods will require pension credit recipients to report relevant changes when they occur—however, this will not necessarily result in increased levels of contact for all recipients.[198]

Baroness Hollis opposed the change on the grounds that it mean more intrusive means-testing for pensioners and that take-up would reduce as a result.[199] She also thought assessed income periods could 'nudge' pensioners towards releasing equity from their properties to fund social care which would enable them to remain in their own home:

> We have already means-tested these people twice, so any savings apart from their homes have probably been means-tested out of existence. Freeing these pensioners from means-testing, if only at 75, means that they are nudged into equity release, thus drawing down the value of their home only as they become more frail. This was, and in my view is, wise policy.[200]

Lord McKenzie asked about the Government's plans for improving take-up of Pension Credit:

> Ensuring that pension credit assessments of means-tested benefit are accurate is not an unreasonable ambition, but an equally important ambition should be to improve the take-up of pension credit, as my noble friend made clear. We know that about one in three of those eligible for pension credit are currently not claiming it, although take-up of the guaranteed credit is higher. The greater the required engagement with the

[197] Bill 55 EN – para 116
[198] HL Deb 15 January 2014 c116GC
[199] Ibid c116-7
[200] Ibid c119-20

> system, the greater the risk will be that pensioners will fall out of the system or not engage with it in the first place.[201]

He thought the issue of equity release to fund social care should be treated explicitly in the rules, rather than "hanging it onto something via an administrative easement." One possibility, would be a change to the capital disregard rules.[202]

Baroness Sherlock asked about the assumptions behind the Government's estimate of savings. She also thought the Committee needed to understand the potential impact of the change on the treatment of income needed for social care.[203]

Regarding equity release, Lord Freud responded that:

> Assessed income periods were never intended to enable people to shield their income and capital from interaction with the means-tested system. Pension credit is a safety net benefit providing support for daily living needs for the poorest and, as such, should be a last resort.[204]

He acknowledged that money from equity release could be disregarded if it was taken for essential repairs. The Government's planned care charging reforms would "provide greater clarity about what people would be expected to contribute". It was looking at the potential interactions of the care charging system with means-tested benefits but did not think that retaining assessed income periods was "a way of protecting the position for what may be a minority of pension credit customers in specific circumstances."[205] In response to suggestions that AIPs should be retained for older pensioners, he said:

> […] we do not have a breakdown of age from the sample of AIP reviews that we have taken, but we have no evidence to suggest that older pensioners have more stable incomes than younger ones. Retaining AIPs for older pensioners would prevent us driving many of the inaccuracies out of the system and would lead to a two-tier system, whereas we want to see a single, understandable regime for everyone. Older pensioners are more likely to have indefinite AIPs already in place in April 2016 because they are being retained, so they should not experience any significant changes to their reporting requirements.[206]

In response to Baroness Sherlock's questions about the impact assessment, he said:

> […] on the average figures used in the IA, they are mean figures, so the average mean loss is £13 and the gain is £6.30[…] We are assuming 1 million extra changes of circumstance. That is what the £17 million comes from, and we are assuming a 10% reduction in savings to account for this on the increase in fraud and error.[207]

At Report Stage, Baroness Hollis moved an amendment to exempt people aged over 75 from annual means-testing.[208] Lord Freud responded that setting indefinite assessed income periods for people over 75 could reduce savings by around 30%. He described this as a "high price tag on top of the protection that we have factored in for people already on

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[201] Ibid c120GC
[202] Ibid c121GC and 125GC
[203] Ibid c125GC
[204] Ibid c125GC
[205] Ibid c126GC
[206] Ibid c128GC
[207] Ibid c128-9GC
[208] HL Deb 24 February 2014 c811-2

indefinite AIPs.[209] Baroness Hollis remained concerned that means-testing was being reduced for younger pensioners but increased for older ones:

> Pensioners slightly younger are built out of means-testing because the whole lot of pension credit has been thrown out of their new state pension. One day older and they are not only going to be means-tested but means-tested annually until the day they die, until they are 90. That is shameful. The Minister is widening the gap between younger pensioners, who will be much better off and with no means-testing, and the pensioners who will be staying with the old system, who are already older and poorer and who will have a lower pension and face means-testing.[210]

Baroness Sherlock was concerned that pensioners who were overpaid could be subject to a civil penalty if they were considered to have acted "negligently" - which meant "acting carelessly, not paying sufficient attention to the task in hand, or disregarding the importance of what is required to be done in relation to the claim or an award". She thought this was a "pretty low bar" and asked the Minister at least to look again at the guidance.[211] Lord Freud responded that the Government would look carefully at its communications to ensure that people had a clear understanding of what to report.[212]

5 Bereavement benefits

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 twelve 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.

The provisions in the Bill relating to the Bereavement Support Payment were considered in the Lords Grand Committee on 15 January[213], and at Report Stage on 24 February.[214]

In Grand Committee, Baroness Hollis tabled a series of amendments:

- To extend the period of support for widowed parents, to either three years or until the youngest child is seven;
- To extend the period of support for bereaved partners who had been carers; and
- To provide that claimants are not subject to conditionality while in receipt of BSP.

For the Opposition front bench, Baroness Sherlock and Lord Browne also spoke to amendments:

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209 Ibid c817
210 Ibid c820
211 Ibid c815
212 Ibid c817
213 HL Deb 15 January cc130-152GC
214 HC Deb 24 February 2014 cc731-748

- To ensure that both the lump sum and the instalment element of BSP would be tax-free; and

- Calling for a review of the impact of the proposed changes on bereaved families through a report to Parliament within six months.

As regards the tax status of BSP, Lord Browne said that a proper understanding of the effect of BSP "requires more certainty than the Government are providing about its tax status" and that it would be helpful if then Minister could tell the House "when he hopes to have more clarity about this issue."[215]

Lord Browne concluded:

> Finally, if the Minister is not minded to accept any of the specific amendments or our generic amendment, perhaps he could engage with these outstanding issues in another way. The policy manager at the Children's Society, Dr Sam Royston, has advised us that within cost neutrality the BSP could be extended to three years by reducing the ongoing payment and by reducing the lump sum payment, both by comparatively small amounts. I would be happy to share this proposal in detail with the Minister and his team and am sure that his own support networks could easily explore what adjustments to the payments might facilitate an extension in the ways we have been discussing. First, I would ask the Minister to consider in particular whether delaying the implementation of the BSP to those aged under 45, until at least the time when savings are to be made, would allow greater generosity and flexibility to bereaved families. Secondly, does he agree—I put this crudely—that, if we spread the jam slightly more thinly, it would be possible for BSP to be paid to parents with the care of children for at least three years?[216]

For the Government, Lord Freud replied:

> Moving away from a payment focused on immediate financial need would result in more but less generous instalments, as noble Lords have pointed out. Bereavement support payment would begin to resemble a long-term income replacement benefit. It would then become an overlapping benefit and could not be disregarded from universal credit and benefit cap calculations. Probably more important in terms of the tax implications, no decisions have been taken on the taxable status of bereavement support payment. Any decisions will be taken as part of the annual fiscal process in the context of the wider public finances. However, the Treasury has indicated that because the lump-sum payment is intended to meet the costs arising from bereavement and is not intended to be a replacement for other income, it would not expect to levy income tax on this payment. It is unlikely that a payment with a longer duration could be exempt from tax. It is also likely that under EU co-ordination rules, payments with a longer duration could be classified as a survivor's pension. This would mean that we could also be liable to pay sickness and family benefits to a survivor abroad. If the bereaved person or family does need ongoing financial support, then other benefits would be available to provide this support, primarily universal credit.[217]

With regard to conditionality, Lord Freud said:

> Given that the policy of not imposing conditionality requirements on bereaved claimants claiming universal credit for six months is already more generous than that for bereaved individuals in other circumstances, and that our flexible conditionality

[215] HL Deb 15 January c139
[216] Ibid c141GC
[217] Ibid c144GC

> regime allows us to reflect on and respond to individual circumstances, I see no merit in having a longer period.[218]

He added:

> Removing any requirement to engage with the labour market through universal credit for a longer or even indefinite period could have a negative effect on a person's recovery and long-term job prospects. We believe that allowing people to engage with the labour market through universal credit is necessary to help them adjust and regain control of their lives.[219]

The Minister said that he was "absolutely committed to making sure that parents who have suffered a bereavement receive an appropriate conditionality regime", and to that end had asked officials to meet with the Childhood Bereavement Network in the coming months to discuss the policy approach in Universal Credit and to develop guidance.

On whether Bereavement Support Payment should be payable to people who were not married or in a civil partnership, Lord Freud reiterated the position of successive governments:

> Our law and tax systems recognise inheritance rights and needs of bereaved people only if they have a recognised marriage or civil partnership. This stems from the founding principle of the national insurance system, which is that all rights to benefits derived from another person's contributions are based on the concept of legal marriage and civil partnership. Allowing cohabiting couples to have access to bereavement benefits would significantly increase complexity; and proving cohabitation can be incredibly challenging, not to say an intrusion into claimants' private lives.[220]

Responding to the Opposition's call for a review, Lord Freud said:

> …there clearly needs to be a period following introduction of the new payment to allow changes to bed down before we can review its effectiveness and impact on the different groups of claimants. I can assure the noble Lord, Lord Browne, that we have already committed to review the change in our impact assessment at a point when sufficient evidence is available to assess all aspects of the policy.[221]

The amendments were withdrawn.

At Report Stage, Lady Hollis moved further amendments to enable bereaved parents to be exempted from Universal Credit conditionality for a period twelve months.[222]

For the Government, Lord Freud said:

> …the House may find it helpful to know that, although I do not agree that a change to conditionality in respect of only this specific group of amendments is appropriate, I am proposing to conduct a wider review into the circumstances where children could be in considerable distress and where it is clear that conditionality should not be applied.[223]

The Minister gave further details of the proposed review:

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[218] Ibid cc145-6GC
[219] Ibid c146GC
[220] Ibid c148-9GC
[221] Ibid c149GC
[222] HL Deb 24 February 2014 c731-4
[223] Ibid c734

> I …want to conduct a review as quickly possible, in order to embed any new rules in the regime before we take new claims to universal credit from families. That is why I propose to undertake the review myself. I would like, in practice, to conclude that review by June or so. I will report back to the House following that. I am not quite sure of what form that will take but we will find the right form nearer the time.
>
> The scope of the review will include not just where there is a bereavement payment due but where there is the death of a partner, possibly unmarried, where the child's sibling dies, or where a family is fleeing domestic violence. There will be other examples. We will start with an evidence-gathering phase. I should like to involve Members of this House—one or two have already demonstrated extreme knowledge—but I would also look to engage an expert adviser and to conduct open evidence-gathering sessions, including one for Peers. If that review concludes that changes to universal credit regulations are needed, I am able to bring those forward under the existing powers in the Welfare Reform Act 2012.[224]

Lord Freud said that he was able to commit to the review "on the basis that the amendment proposed by the noble Baroness, Lady Hollis, does not go through."

Lady Hollis argued that her amendment did not "cut across any review in any way", adding:

> It seeks only to protect a small, identifiable and precise group from additional pressures of work conditionality at no cost at all and at a time when they and their children are most deeply distressed. I do not think that they should be put on the back burner for a review that may or may not deliver what I hope the House will think is the right path to take. If the review goes ahead and the Minister does not need the amendment, as it is permissive, he does not need to draw on it. If his review falters, which I think it will because he is asking too much of it, the amendment would give protection to some of the most vulnerable people in our country at the time of their deepest grief.[225]

Lady Hollis pushed her amendment to a vote. It was defeated by 237 votes to 202.

The Government provided two notes to Peers on 24 February – Universal Credit conditionality and bereavement and Bereavement Support Payment overview.

6 Private pensions

At Second Reading, Lord Freud explained the Bill included a number of measures intended to build on the introduction from October 2012 of requirements on employers to automatically enrol employees into a workplace pension saving scheme and make minimum contributions:

> As a result of more people saving into a private pension we expect to see more dormant pension pots as people move jobs—up to 50 million by 2050. The Bill therefore contains powers to introduce a pot-follows-member system of automatic transfers of small pension pots. This will help people to better keep track of their pension savings and ensure that they reap the benefits of consolidating those small pots.
>
> The automatic enrolment of people into pension schemes and the introduction of automatic transfers make it all the more important that schemes used for workplace pensions are well governed, well administered and offer value for money. The Bill therefore extends powers to set minimum quality requirements for workplace pension

[224] Ibid c745
[225] Ibid c748

> schemes and to limit or prohibit charges to allow the Government to respond to the recent consultations on these issues accordingly. In addition, the Bill contains a number of measures to clarify and strengthen existing private pensions legislation, including a power to prohibit the offering of incentives to transfer pension rights. Finally, the Bill gives the Pensions Regulator a new objective to minimise the impact on the sustainable growth of an employer when regulating defined benefit pension scheme funding, and it also makes changes to the calculation of the Pension Protection Fund's compensation cap to reflect long service.[226]

Baroness Sherlock said the Opposition had a number of suggestions for ways in which the Bill could go further in addressing the challenge of building a private pension sector that people could trust:

> The first is to improve pension schemes. We will argue for the full disclosure of all costs and charges, including the costs extracted by fund managers, and stronger trustee-based governance of savers' pension money, including the extension of fiduciary duties to all intermediaries who handle pension savings and policies, with the aim of encouraging bigger, better, stronger, well-resourced and expert pension schemes which are more able to provide value for money for savers.
>
> The second proposal is better management of pension pots when people move jobs. We absolutely agree about the need to make sure that people do not lose track of pension pots when they move to a new job, but we absolutely disagree with the way that the Government have decided to do this. The Government have chosen "pot follows member", as it is known in the trade, but that raises some really serious questions. The most important are probably, first, the potential for customer detriment if, for example, the new employer's pension scheme is worse than the one that the person is leaving, and, secondly, the real concerns about administrative complexity and the cost of this way of doing things. We will need to drill down to that in Committee. Our preferred solution would be for the pot, by default, to move to an aggregator such as NEST, or one of its competitors, rather than to the new employer's scheme. That is not just a Labour position; it is backed by many key experts, as we will come back to in Committee.
>
> Thirdly, pension charges have to be reasonable if people are to have confidence to invest their hard-earned money. […] I am delighted to say that Ministers have now acknowledged that there is an issue and we are promised a consultation and a cap on charges.[…] However, we will need to drill down on this in Committee. We will need to understand exactly where the Government are going on this, the right level for the cap, whether the cap will include the full range of charges and deductions, and how soon action will be taken.
>
> Finally, there is the means by which people turn their pension pot into an income for retirement—decumulation, in the jargon. Most people use their pension pot to buy an annuity. We are the annuity capital of the world. More than half of all annuities are sold in the UK but the annuity market has some serious issues and is badly in need of reform. Performance is hugely variable, charges are often unreasonably high and the margins are such as to raise serious questions about whether they are value for money for savers. We will seek to amend the Bill in Committee and on Report to ensure that people approaching retirement receive good quality, independent advice, something that is already best practice and available in many of the larger schemes.[227]

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[226] HL Deb 3 December 2013 c142-3
[227] Ibid c148

6.1 Automatic transfer of pension benefits (pot follows member)

Clause 32 introduces **Schedule 16** which would require 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. Following consultation, the Government announced in July 2012 that it had decided to create a system in which small pots followed people through employment - 'pot follows member' (PFM).[228]

In December 2013, Lord Freud wrote to Peers explaining some amendments the Government was making to the provisions.[229]

At Committee Stage, Baroness Sherlock moved an amendment that would allow for the possibility of using a "default aggregator model". She said:

> The impact assessment confirms that the Government considered two default transfer options. The first option would be pot follows member, where small pension pots follow the member to the new employer's pension scheme. The second is an aggregated scheme in which the small pension pots are transferred to an aggregator such as NEST. The Government had two choices, and I believe strongly that they made the wrong one. As it stands, the clause allows only for pot follows member. Our amendments would allow the possibility of using a default aggregator model without the need for new primary legislation.[230]

She argued that PFM raised some significant risks. The National Association of Pension Funds, for example, had concluded that it could:

> […] harm members' savings and would be disproportionately complex for the industry to implement. We estimate that savers could lose a sizeable proportion of their savings if they move from a good scheme with low charges and good governance, into a bad scheme with high charges and poor governance. The approach also exposes individuals' entire savings to market risk when they transfer.[231]

Her amendment was supported by Lord Turner, who shared the concern that PFM could involve people being consolidated into a scheme where they were paying higher charges:

> To get the costs down, it is important to ensure that there are low costs for active members in the scheme to which they are contributing, and it is also important that low charges are levied on those who have already accumulated pots, and on those pots derived from past employment. That requires two things. First, it requires measures to facilitate or require the consolidation of pots, thus removing the costs of multiple proliferation, which are of no benefit either to the industry or to the individual. Secondly, it requires measures to ensure low costs in the scheme into which we consolidate. Again, it is good that a consensus has emerged over the years on the importance of those objectives. I recognise that the pot following the member is proposed as being one way to that end, but I am concerned that while it achieves the first of the two crucial objectives of consolidation, it does not necessarily achieve the second. It does not necessarily achieve low cost in the scheme into which the person is being consolidated because there are dangers that PFM could involve people being consolidated into a scheme where they are paying higher charges than they were paying into the scheme they had been contributing to, and higher charges than

228 DWP, Government response to the consultation – Improving transfers and dealing with small pension pots, CM 8402, July 2012
229 See also, DEP 2014-0070 –Automatic pension transfers: estimated impacts under different pot size limits
230 HL Deb 15 January 2014 c157GC
231 Ibid c159GC

> necessary. I believe, therefore, that the aggregator option may be the better one and that it needs to be looked at carefully and fairly.[232]

Lord Stoneham said there should be reflection before final decisions were made.[233]

Baroness Drake said the areas of concern regarding PFM could basically be grouped into three categories: confidence in the basis for the Government's decision, differing views on what benefits the saver and the need to protect dormant pots already accrued. On the first point she said there were significant challenges to be overcome:

> PFM requires effective pan-industry collaboration, but what if that is not forthcoming? Are the Government confident that they can overcome industry inefficiencies and conflicts of interest, so well-articulated by the noble Lord, Lord Turner? The DWP is working with the industry to find an IT solution to match pots to members. There are significant technical challenges to overcome, standardisation to be achieved and the industry as a whole has to reach a consensus that prioritises the savers' interests. If and when that is achievable are unknowns, but the Bill locks us into pot follows members.[234]

On the question of benefits for savers, she was concerned that: PFM: did not currently accommodate people who left the labour market or became self-employed, that it could result in higher costs for employees with frequent job changes and that it excluded existing dormant pots. She asked whether there would be any synergy with the ongoing audit of 'legacy schemes', currently being undertaken by the ABI.[235]

Lord Bates explained that the Government believed PFM would lead to "greater pension pot consolidation" and that this was key to achieving economies from the purchase of annuities. It also hoped that PFM would help to achieve member engagement as individuals would see their pension pots grow, even as they changed jobs:

> The key to building increased engagement is to maintain the relationship between employer and employee in the workplace and keep a track of where their savings are. Pot follows member aligns with automatic enrolment in this respect; when an individual joins a new employer, they will be automatically enrolled and in many cases their small pension pot will also be transferred. That is in many ways the synergy that was being looked for and is delivered by this model.[236]

Work was underway to improve scheme quality:

> There should be no such thing as a bad scheme. This is a regulated industry; if there were a bad scheme, it should have been closed down and it should have been drawn to our attention.[237]

The Government was concerned that an aggregator approach risked "significant market upheaval" at a time when it wanted the industry to focus on delivering better workplace schemes.[238]

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[232] Ibid c160-1GC
[233] Ibid c162GC
[234] Ibid c163GC
[235] See Library Note SN 6209 Pension scheme charges (section 6)
[236] HL Deb 15 January 2014 c167GC
[237] Ibid c168GC
[238] Ibid

Decisions about timing and implementation for pot follows member would depend on the outcome of ongoing consultation. Regulations would be brought forward under the affirmative procedure. A decision had not yet been made on the implementation date. There was scope to include pre-2014 schemes and the self-employed at a later date:

> Reference has been made to pots from pre-enactment days—that is, pre-2014. That is an excellent point. No decision has been taken on that. As I understand it, the legislation will provide for those pots to be included. However, as I say, no decision has yet been taken. These are the pots created under automatic enrolment. That seems broadly correct. […] Initially, automatic transfer will apply in respect of any person who is a worker and an active member of a workplace pension scheme. Automatic transfer builds on automatic enrolment, which in turn relates to an employer duty, so it places the focus on workers first. There is scope to refine and broaden these provisions to include the self-employed if we consider that appropriate at a later date, but no provision has yet been set for that.[239]

The Government was making two minor amendments to the provisions:

> One removes the definition of a member from Schedule 16, ensuring that anyone still in the accumulation phase has the same chance to consolidate their small pots as other savers. The other allows us to amend the levy provision to meet HMRC expenditure if its existing infrastructure could help in implementing automatic transfers.[240]

Baroness Sherlock thought this left "fundamental questions" unanswered such as: concerns about pots being transferred into schemes with higher charges; whether there would be a solution for legacy pots; and how the scheme would work for people with multiple job changes, the self-employed and on leaving the labour market. She remained concern that PFM carried a risk of consumer detriment on a significant scale, particularly given the context in which the employee would be auto-enrolled into a pension scheme they had not chosen themselves:

> So step one, without any active consent, we have auto-enrolled them in a pension scheme. Step two, when they move jobs, without any active consent we default moving it with them to the new employer. Doing that in a context where the level of return that they might have expected to gain with the old employer could, potentially, be significantly higher than that which might be enjoyed with the new employer, creates the possibility that the state is creating consumer detriment on a significant scale.[241]

The Opposition would return to the issue at a later stage in the Bill's proceedings.[242]

At Report Stage, Baroness Sherlock again moved an amendment in her name and those of Lord Hutton and Lady Drake to allow for the possibility of using an aggregator model. She said:

> We all want the consolidation of small pension pots and we all want an automatic transfer system. Our preference is for an aggregator model, but all we are asking for in our amendments is to allow further work to be done and for the possibility of

[239] Ibid c171-2GC
[240] Ibid c172GC
[241] Ibid c174
[242] Ibid c176GC

> aggregators to be the choice rather than what the Government have done, which is to restrict the choice only to pot follows member.[243]

Baroness Drake said:

> The unresolved weaknesses in the pot-follows-member solution are apparent in the inherent risks, the uncertainties in key assumptions and the delivery challenges. The transfer solution chosen by the Government must give greater confidence to mitigating saver detriment. This amendment reflects the very real concerns that not only I but many others have expressed, but it retains the power of the Secretary of State to make regulations automatically to transfer small pots while allowing him to give more time to detailed consideration on the model of the solution.[244]

Lord Turner said that if the Government had committed to introducing a charge cap, the "decision might be a bit more balanced." However, in the absence of that, "we should not preclude the option of aggregation, which may well prove a more effective route to get to the low costs that we require above all for savers."[245]

Lord Hutton said the Government should take time to reconsider:

> There comes a moment in the gestation of any policy when it is necessary to take a step back to be sure about it and to satisfy yourself that the policy is the right one—particularly given the fact that, as my noble friend Lord Turner said, if we do not amend the Bill, we will make the transfer of these pension pots compulsory and run the risk that people could lose out. That is a real hazard of which we need to be aware. In my experience, the best time to take that pause is before you take that step; you should not to do so once you are committed to it, perhaps irrevocably, and when some people will lose out as a result.[246]

Lord Stoneham said there were arguments against the aggregator model:

> The aggregator model, by breaking the link with the employer's current live scheme, will make it more difficult for individuals to understand where their money is and to engage with their retirement savings. An aggregator model will be a further distortion of competition in the pensions sector. We know that the sector is over concentrated at the moment; we will merely be making it worse. Size also promotes complacency and inefficiency, and could increase risk where competition is weaker […]The aggregator model will exploit inertia, too. Once the aggregator has the worker's first pot, it is likely to receive subsequent pots because the consumer will make no active choice and there will be no incentive to innovate or improve performance.[247]

Lord Flight was concerned about how the allocation process would work under the aggregator model.[248] Lord German argued that the crucial factor was the standards that would apply to any pension and welcomed the work that was underway on this. He said:

> We have to make a choice. It seems to me that we should choose the pot-follows-member position and thereby give greater power and greater pension outcome to millions of new savers.[249]

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[243] HL Deb 26 February 2014 c932
[244] Ibid c935
[245] Ibid c937
[246] Ibid c937
[247] Ibid c939
[248] Ibid c940
[249] Ibid c942

Lord Freud explained why the Government believed PFM was the best solution:

> We are clear that the pot-follows-member model, with small pension pots automatically moving and being combined with the individual's current live workplace pension, will lead to increased consolidation of pension pots, better outcomes in retirement and better member engagement, as well as administrative savings for the industry. The pot-follows-member model builds on the essential foundation of automatic enrolment —the employer/employee relationship that is proving so successful in driving retirement saving, including among those who have never had a pension before. Employees identify with this relationship and with the idea of pots following them to their new employer.[250]

He had a number of concerns about the aggregator model. One was that it was not clear who chose where the pension was aggregated and what the criteria for setting one up would be. Another was it would "skew the market in favour of large providers and reinforce the dominance of a few big players".[251] As regards the standards that would apply under PFM, the Pensions Minister was "strongly minded" to introduce a charge cap. There was scope to introduce an aggregator in future if there was demand for it.[252] Officials were exploring the feasibility of using HMRC's PAYE data and system to help us to deliver a secure, efficient and straightforward pot-matching element to implement the process.[253]

Baroness Sherlock said it would be better to take time to work through questions about how the aggregator model would work, rather than rush ahead and make a decision which might turn out to be the wrong one. She thought important questions about how PFM would work remained to be answered. Her amendment was defeated on division by 252 votes to 201.[254]

Auto-enrolment

Power to create general exceptions

The *Pensions Act 2008* introduces new duties on employers to automatically enrol jobholders into a qualifying pension scheme and, unless the employee opts out, make minimum contributions.

Clause 37 provides for a general power to create exceptions to the employer duties. This was proceeded by a consultation.[255] The Government has said that it does not envisage that there will be many situations where the employer duties would need to be dis-applied.[256] In debate in the House of Lords, Lord Bates said:

> The Government's consultation on technical changes to automatic enrolment last year shows significant support from employers, pension providers and financial advisers for limited, carefully crafted exclusions which help individuals where automatic enrolment has no benefit or makes no sense. We are currently looking at the evidence from that consultation with a view to publishing proposals when a power is on the statute book. So far, the evidence suggests some clear examples. One straightforward example is that people with enhanced or fixed tax protection status could face a tax surcharge if they make any further contributions into a pension. As well as this, automatic

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250 Ibid c943
251 Ibid c944
252 Ibid c946
253 Ibid c947
254 Ibid c949
255 Workplace pensions: exceptions to employer duties – government response (October 2013
256 DWP, *Pensions Bill Delegated Powers Memorandum from DWP to the Delegated Powers and Regulatory Reform Committee*, May 2013, para 210-17

> enrolment may be illogical for leavers, since it may make no sense to force an employer to enrol a worker into a company pension scheme if they are serving out their notice.[257]

The Opposition argued that the clause was too widely drafted. Baroness Sherlock moved an amendment to prevent it being used to exempt entire classes of businesses, such as small or medium sized employers.[258] Lord Bates responded that the Government had no intention of using the power in this way.[259]

However, at Report Stage, the Government amended the Bill to limit the power so that it could not be used in this way.[260] Lord McKenzie welcome the amendment but was concerned that the powers of exemption remained wide. He asked the Minister to give as much assurance as possible on the record as to the intended use of the clause.[261] Lord Freud responded that the Government had identified four circumstances in which the exception might be used. It would consult on final proposals and draft regulations in due course. It wanted to retain flexibility to take account of others.[262]

Quality requirements

The 2008 Act requires employers to automatically enrol employees into a qualifying pension scheme (i.e. one which meets basic requirements set out in the Act and supporting regulations). At Committee Stage, the Government added a new clause to the Bill that would provide for alternative quality requirements for defined benefit schemes. Lord Bates explained:

> By way of context, I should first explain that currently, if an employer wishes to use a defined benefits scheme for automatic enrolment, the scheme must either be contracted-out, and provide benefits broadly equivalent to the state second pension, or provide benefits broadly equivalent to, or better than, a hypothetical "test scheme". There is a separate test for money-purchase schemes based on minimum contributions, set at 8% of qualifying earnings.
>
> […]
>
> My Lords, these amendments allow for two simpler alternative tests for a scheme to demonstrate that it is of sufficient quality. These were developed following last year's consultation on technical changes to automatic enrolment, asking for views on whether there is a simpler way to determine whether a defined benefit scheme is good enough for automatic enrolment.
>
> As well as calling for a general simplification in these rules, responses to the consultation highlighted that once the contracting-out period ends in April 2016, all those schemes that are currently contracted out, and so considered good enough, must satisfy the test scheme standard. This is considered unnecessarily complex and burdensome, particularly as, until the end of the contracting-out period, the schemes will have satisfied the higher standard of the reference scheme test. The alternative tests provide for a scheme to be used for automatic enrolment if the cost to the scheme of the future accrual of benefits for active members would require contributions that are at least equivalent to one of two prescribed percentages of relevant earnings.

[257] HL Deb 20 January 2014 c262GC
[258] Ibid c260GC
[259] Ibid c262GC
[260] HL Deb 26 February 2014 c953
[261] Ibid c954
[262] Ibid c955

> The first will apply at the aggregate level, looking at the scheme as a whole, and the second will apply at the individual level and must be satisfied for at least 90% of relevant members. Moreover, in order to provide assurances about the quality of schemes satisfying this alternative test, the amendment ensures that the prescribed amounts will not be lower than 8% of relevant earnings, in line with the minimum level for total contributions into a qualifying money-purchase scheme.
>
> We are mindful of the need to strike the right balance between increasing simplicity and flexibility and ensuring adequate member benefits across all qualifying schemes. This balance will be one of the key issues to explore as we consult stakeholders on the detail of the alternative tests, and will also be reviewed in 2017 to ensure that the legislation is working as intended.[263]

Work-based schemes: power to restrict charges or impose requirements

Clause 41 would allow for regulations to limit or prohibit charges and to impose governance and administration requirements for pension schemes specified in regulations."[264]

Disclosure

The Opposition moved an amendment intended to improve disclosure of charges. Lord Browne explained that the amendment would:

> […] enable the Secretary of State, following a public consultation, to set the standard by which pension schemes must declare charges and transaction costs to their members and the members' employers.[265]

Former Chancellor of the Exchequer Lord Lawson tabled amendments on the same point. He said:

> In a competitive market, compulsory disclosure will go a very long way towards removing the mischief. If there is proper disclosure, there is no need for a cap or the regulation of charges in the first instance. We can then see how it works out. Events may subsequently suggest that there may be some need for regulation but initially the remedy must be to require disclosure.[266]

The Opposition also questioned the scope of the powers the Government was giving itself to amend legislation "whenever made" and to impose requirements on work-based schemes by secondary legislation. The Delegated Powers and Regulatory Reform Committee (DPRRC) had not been "persuaded adequately by the Government's justification for granting themselves this power." [267] Lord Bates responded that:

> […] we have noted the comments and recommendations put forward by the DPRRC. However, we believe that it is vital that the Government's ability to regulate effectively in this area is not inadvertently undermined by future legislation that could not have been foreseen.[268]

At Report Stage on 26 February, the Government amended the Bill to require improved transparency. Lord Freud explained:

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[263] HL Deb 20 January 2014 c267-8GC; This is became clause 39 of HL Bill 91
[264] DWP, Government Amendments to the Pensions Bill 2013 (Commons Report Stage) – briefing paper, October 2013; HL Bill 55
[265] HL Deb 20 January 2014 c270-1GC
[266] Ibid c274GC
[267] Delegated Powers and Regulatory Reform Committee, Thirteenth Report, HL Paper 83, para 21
[268] HL Deb 20 January 2014 c279GC

> Amendment 26A demonstrates our firm belief that transparency of costs and charges is fundamental for good scheme governance and to enabling comparison between schemes. […] We have always been clear that disclosure of transaction costs should be improved; that is why we sought views on the best way of doing this in our consultation following on from the Office of Fair Trading study of the defined contribution workplace pension market. In the consultation, we suggested using our existing permissive powers in the *Pension Schemes Act 1993* to require improved disclosure of information. However, I am pleased that our Amendment 26A goes further than this and, for the avoidance of any doubt about our intentions, requires the Secretary of State to make regulations requiring greater transparency around the transaction costs incurred by work-based defined contribution schemes. It would also allow the Secretary of State to disapply that duty in limited circumstances in which he is content that there is an alternative regulatory regime in place for specified schemes. The intention is for this to provide for a situation in which the Financial Conduct Authority has made its own rules for disclosure of information about transaction costs in relation to contract-based schemes, in which case the Secretary of State may need to make regulations only for trust-based schemes which are regulated by the Pensions Regulator.
>
> This amendment would provide for the types of transaction costs covered to be specified in regulations. Here again, we are in agreement with my noble friend Lord Lawson that the full range of transaction costs that may be borne by scheme members should be disclosed. I would like to reassure the House that we do have the powers to ensure that this happens, but the Government need the flexibility to require disclosure of types of costs that might become apparent over time. Government Amendment 26A has therefore been drafted specifically to provide this flexibility and to future-proof the legislation. We will formally consult before making the regulations but, at this stage, and in the first instance we would expect them to include costs such as stamp duty and bid-offer spreads. We would be more than happy to involve my noble friend Lord Lawson, and other noble Lords with an interest in this matter, in the discussion of what the regulations will cover.[269]

Lord Lawson welcomed the announcement but identified four ways in which further improvement was needed compared to the Government amendment as drafted:

- There should be full public disclosure of charges, rather than disclosure to limited categories. One way to achieve this would be to require full disclosure to the Pensions Regulator, who would publish a public register;
- The requirement should be to disclose all costs: the amendment referred to “some or all of the costs;
- The amendment referred to ‘transaction costs’ which did not include investment managers’ fees, performance frees and equity fees.
- The present proposal related only to money purchase schemes, not to defined benefit schemes.[270]

Lord Freud responded that:

> I will quickly recap some of the language in our Amendment 26A. It says “some or all” rather than “all” for drafting reasons. We need to set out, as far as we can, in regulations what costs should be included but our intention is to include all transaction costs, which incorporates not just the transaction costs that my noble friend Lord

[269] HL Deb 26 February 2014 c955-8
[270] Ibid c958-9

Lawson made the point about but all costs, because we have permissive powers in the *Pension Schemes Act 1993* to get all costs, not just transaction costs. As I said, before Third Reading we will look at whether to include the defined benefit schemes and we will come back to that.[271]

The Government made a further amendment to the Bill at Third Reading. Lord Freud explained that they would require information about costs and charges to be made publicly available. Provisions in the Bill, together with existing provisions, would enable it to provide for "full transparency of all pension scheme costs and charges." The current amendment would place a duty on the Financial Conduct Authority, mirroring that on the Secretary of State, requiring disclosure and publication of information about costs for contract-based schemes. The Government would consult on whether some form of disclosure requirement should be extended to defined benefit (DB) schemes:

These amendments build on those made on Report to require regulations to be made providing for the disclosure of transaction costs. Following the points raised by my noble friend Lord Lawson during that discussion, I agreed to consider how to make explicit the Government's commitment to publishing the information on transaction costs. I am pleased to say that these amendments would require the information about costs and charges to be made publicly available. We will have further work to do to establish the best way to enable this publication, not least to ensure that we do so in a way that allows for meaningful and helpful comparisons. However, I can confirm that we will work to achieve publication in a way that enables scrutiny and comparison by any interested member of the public.

As noble Lords have said in previous debates, it is clear that for disclosure of information on costs and charges to be meaningful the full range of costs and charges that may be borne by members must be made transparent, and that this must be done in a way that enables scrutiny of the total amount that may be deducted from an individual's pension pot. It is particularly vital that those with a fiduciary duty—namely, the trustees and independent governance committees who will have a role in representing members' interests—can see both itemised and total costs and charges borne by members.

As I assured the House in our previous discussion on this matter, the "some or all" formulation in the drafting of this provision has been used to future-proof the legislation and provide flexibility to amend it as new types of cost and charge become apparent over time. This flexibility, and our existing powers to require disclosure of information, will enable us to provide for full transparency of all pension scheme costs and charges.

These amendments also make a technical change to this provision since the issue was last considered by noble Lords. The amendments now place a corresponding duty on the Financial Conduct Authority to that which we have placed on the Secretary of State. In this way, it provides a better fit with the shared approach to regulation of pensions that exists between the Pensions Regulator and the Financial Conduct Authority. It provides for regulations and rules to be made that apply in a consistent way across both trust and contract-based provision. The duty on the Financial Conduct Authority mirrors the duty on the Secretary of State requiring both disclosure and publication of information about costs.

These duties apply only to defined contribution schemes. As I touched on in our latest discussion on this subject, this is narrower than the provision of our existing power. This focus reflects the Government's concerns about the failures in the defined

[271] Ibid c967

> contribution workplace pensions market that have been identified by the Office of Fair Trading. The nature of defined benefit schemes means that members are effectively shielded from the impact of costs and charges. As for employers and trustees, both have a keen interest and ability to achieve value for money in the administration and governance of their schemes.
>
> However, as I said during our debate on Report, the Government do have the power to require transparency of costs and charges in defined benefit as well as defined contribution schemes, and I indicated that we would continue to consider whether this is necessary. Having begun to consider the question, we think that it merits further examination and consultation with a range of interested parties. It may be that such a measure would enable trustees of defined benefit schemes to better discharge their fiduciary duties.
>
> We will formally consult before making regulations for disclosure of information about costs and charges in defined contribution schemes. When we carry out that consultation, we will also examine whether some form of disclosure requirements should be extended to defined benefit schemes.[272]

Lord Lawson responded that the Minister has "met pretty well in full the points" that he had made at earlier stages of the Bill. However, one loose end remained: whether the same disclosure and transparency requirements would apply to DB schemes.[273]

Baroness Drake asked how the Government would respond if it did not think the rules on disclosure set by the Financial Conduct Authority were adequate:

> As he said, the amendment does not extend the existing powers of the FCA but imposes a duty on it to make rules on the disclosure of information, following consultation with the Secretary of State and the Treasury, to ensure consistency between FCA rules and the regulations made by the Secretary of State. If the FCA response to that consultation is not considered adequate in achieving such consistency, which Minister will be responsible for ensuring that the FCA fulfils its duty in that regard, and with which powers?[274]

She also hoped requirements on disclosure would be extended to DB schemes. She did not think it was strictly true that members of DB schemes were shielded from costs:

> Not only are there costs to the companies that are the employers but there are potential risks to the sustainability of the pension schemes if employers find themselves carrying unreasonable and unnecessary levels of cost.[275]

She also asked the Minister to confirm whether the UK Government were free to set requirements on the transparency of transaction costs, or whether they were constrained by EU rules on retail investment products.[276]

Baroness Sherlock also asked about the delegation of the responsibility for setting the requirements on disclosure for personal pension schemes to the Financial Conduct Authority and about the position of DB schemes.[277]

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272 HL Deb 12 March 2014 c1770 [See also Dep 2014-0362]
273 Ibid
274 Ibid c1772
275 Ibid c1772
276 Ibid c1773
277 Ibid c1773

Lord Freud responded that the Government's aim was for the requirements set by the Secretary of State and the FCA to be consistent:

> The Pensions Regulator and the FCA work closely together to ensure that the regulatory frameworks for trust-based pensions under the regulator and contract-based pensions under the FCA are aligned and provide for a robust system of governance and fair treatment for members. The Government are not looking to change the current regulatory structure, as was confirmed in the DWP's *Triennial Review of Pensions Bodies*, which was published in December 2013. Structuring the duties in this way is necessary to reflect the dual regulation structure and the fact that the FCA is an independent body in statute. Without this approach, there would be no duty on the FCA to make these rules.
>
> In addition to their existing duties to consult, the amendments mean that both the Secretary of State and the FCA will be under statutory duties to consult one another in making regulations and rules, enabling us as far as possible to ensure consistency of approach with the rules following the regulations. There is absolute commitment from the Government and from the FCA to aim for consistency. The FCA would not propose to deviate from government regulations. The aim of a separate duty is not to provide room for inconsistency—far from it; it is about giving the FCA the flexibility that it needs to use its powers and expertise to respond as an independent regulator. […]
>
> On what will happen if the FCA rules are not found to be adequate, the Secretary of State retains the power in Section 113 of the *Pension Schemes Act 1993* to make regulations about both occupational and personal pension schemes disclosure.[278]

There would be consultation on the requirements after Royal Assent.

> I believe that regulations will be brought forward later this year. The Government will consult on these regulations before they are laid. The Government's proposals on charges, transparency and governance will be published soon […] The DB element will be part of the consultation. Depending on that consultation, we will have to decide how to treat that particular aspect.[279]

At present, there were no EU rules to hinder the UK Government:

> However, that might change in the future. One of the attractions of pulling the FCA into this process is that it has technical expertise in this area and is the body negotiating in Europe on relevant EU legislation. It is therefore best placed to work with DWP on determining how costs and charges can be defined, captured, measured and disclosed. By using its own rule-making power, the FCA may be able to respond quicker than the parliamentary process to changes in the market or from the EU.[280]

The Government's amendments to the Bill in the House of Lords regarding disclosure of charges were accepted by the House of Commons on 17 March 2014.[281] An amendment tabled to the amendment by Shadow Pensions Minister, Gregg McClymont was defeated on division by 277 votes to 214. He said the intention was to ensure "the Government deliver what they say they want to deliver."[282]

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[278] Ibid c1775-6
[279] Ibid c1776
[280] Ibid c1777
[281] HC Deb 17 March 2014 c585-92
[282] Ibid c592

Charge cap

In the Committee Stage debate, Lord Bates had said the Government was considering how to proceed following a consultation it had launched in October 2013 and would make a statement later in the week.[283] A written statement made on 23 January said:

> We remain strongly minded to cap pension scheme charges in the default funds used for automatic enrolment. However, we have consistently encouraged firms to start getting ready for automatic enrolment 12 months ahead of the time the new employer duties apply to them. Therefore, to give those employers at least 12 months' notice of the rules that will apply to them, I can confirm that any cap on charges will not be introduced before April 2015.[284]

At Report Stage, Lord Browne moved an amendment to require the Secretary of State to make regulations providing for a cap on charges by the end of April 2015. He said:

> This is the last opportunity for your Lordships' House to make it clear that Parliament has a different set of priorities which are in favour of the saver and not the industry. It can do so simply by creating a statutory deadline to compel the use of the power to cap, which the Government reluctantly put in this Bill by way of an amendment following the OFT report, on the date that the Government are creating the impression that it will be used by.[285]

Lord Turner said the issue of total charges was fundamental to what the Bill was trying to achieve:

> The difference between paying charges of 0.5% and 1.5% is that you will be 20% worse off throughout the whole of your retirement. This is not minor, but absolutely fundamental to how we achieve good provision for people in retirement.[286]

He said a charge cap was needed in addition to a requirement to disclose all costs:

> Although a price cap on explicit costs is important, it is not sufficient. That is why I strongly support the sentiment of the amendment of the noble Lord, Lord Lawson, which seeks to cover all the other costs which are not covered in explicit fund management charges.[287]

Conservative Peer Lord Eccles opposed the proposal for a charge cap, arguing that "picking a figure for the price control would be a very foolish thing for any Government to do."[288]

Lord Freud said the Pensions Minister had said he was "strongly minded" to cap charges. The Government's response to its consultation would be published soon.[289]

The Opposition amendment was defeated on division by 225 votes to 165.[290]

For more on the background to this, see Library Note SN 6209 Pension scheme charges.

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[283] HL Deb 20 January 2014 c278GC; DWP, *Better workplace pensions: a consultation on charging,* October 2013
[284] HC Deb 23 January 2014 c14WS
[285] HL Deb 26 February 2014 c963-4
[286] Ibid
[287] Ibid c965
[288] HL Deb 26 February 2014 c967
[289] Ibid c968; DWP, Better workplace pensions: a consultation on charging, November 2013
[290] HL Deb 26 February 2014 c969-72

Governance

Baroness Drake moved an amendment intended to address shortcomings in the governance of pension schemes, particularly contract-based schemes:

> My amendment seeks to capture that governance challenge. To achieve an increase in pension savings, workers are auto-enrolled into workplace pensions. There can be no caveat emptor, as the saver does not buy. The system is designed to restrict the saver to one choice—either stay in or opt out and lose the employer contribution. Current regulation of contract-based pensions is at odds with the assumptions underlying auto-enrolment. Contract-based regulation is built on informed consent and consumer choice. Auto-enrolment is designed and built on the principle of inertia, on a population of savers who do not engage with investment choice. A plethora of reports has revealed the conflicts of interest in the industry.[…][291]

The Office of Fair Trading (OFT) had agreed with the industry that independent governance committees should be introduced. However, she was concerned that these would "fail to achieve the requirement of aligning scheme governance with the interests of savers."[292]

Lord Browne spoke to an Opposition amendment that approached the issue differently, while accepting the same principle. He proposed a requirement on trustees to consider whether their scheme had sufficient scale to deliver good value. Furthermore, all pension schemes should be required to appoint a board of trustees which would have fiduciary duties towards the members of the pension scheme.[293]

Lord Bates agreed that the issues raised – scale, fiduciary duties and conflicts of interest – were important ones to consider. The Government was interested in testing how far scale could help to deliver better quality and lower charges for members but did not think scale was necessarily a determinant of value. It had published a call for evidence on defined contribution quality standards and was considering the responses to this, alongside the OFT's recommendations. It did not agree that simply imposing a trust-based structure was the right approach: "neither the presence of trustees nor fiduciary duties are a panacea for poor governance." The Government was working on requirements for independent governance committees and would respond in due course.[294]

In response to a question from Baroness Drake on whether the Bill would give the Secretary of State the power to change retrospectively the terms of existing pension contracts to embrace any new quality or governance requirements, he said:

> The whole point of what we are introducing is that we are seeking to tackle the issue of the quality of schemes. Therefore it would stand to reason that if one is seeking to improve the quality of schemes, it would be wrong to disbar those who were in previous schemes from getting the benefits of those improved quality standards.[295]

He would write to confirm whether the Bill gave the Secretary of State the power to put in place those quality and governance standards for existing pension contracts.[296]

[291] HL Deb 20 January 2014 c283GC
[292] Ibid c285GC; Office of Fair Trading, Defined contribution workplace pension market study, September 2013
[293] Ibid c286GC
[294] Ibid c287GC; DEP 2014-0094
[295] Ibid c284 and 289GC
[296] Ibid c289GC

Baroness Drake said that auto-enrolment would create a huge demand for pensions that would not have been created under a voluntary system. This carried with it the requirement for a high standard of governance:

> The Government must say that those who enter the market under auto-enrolment to provide pension products must operate on the basis that any conflicts of interest are resolved in favour of the beneficiary or saver.[297]

However, having made her point, she withdrew the amendment.[298]

The Pensions Regulator objectives

Clause 45 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.

Lord Whitty was concerned that this would not protect charities, for whom sustainable growth was not an aim. He suggested that the term "sustainability" should be used instead.[299] Baroness Sherlock said the Opposition was sympathetic to the aims of clause 45 but asked the Minister what reassurance he could provide for finance directors of charities.[300] Lord Bates responded that the proposed objective on sustainable growth was intended to be interpreted in a broad sense. This had been outlined by the Pensions Regulator in its ongoing consultation on its updated code of practice and funding policy.[301] Lord Whitty asked him to give the matter further consideration.[302]

Pension Protection Fund: increased compensation cap for long service

On 1 July 2013, the Pensions Minister announced that the Government 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.[303]

At Committee Stage, the Government amended the provisions increasing the Pension Protection Fund (PPF) compensation cap for long-standing employees. Lord Bates explained:

> My Lords, the four amendments I will speak to fall into two groups of two. The first two, Amendments 64A and 72A relate to the application of the PPF compensation cap to individuals who have entitlement to both an occupational pension and a pension credit arising from a divorce or civil partnership dissolution settlement. It has come to light during the drafting of the Bill that the way in which the PPF currently applies the compensation cap to this group, while in line with the policy intent, does not comply with legislation. When compensation is calculated, these two entitlements are kept separate. It was the intention that the compensation cap would also be applied separately and this is what the PPF is currently doing. However, the legislation, as currently worded, requires the two amounts to be added together and the total capped, leading to a significantly lower payment. These amendments simply bring the existing legislation into line with the policy intent and the actual practice of applying the cap separately. They also allow the change to be applied retrospectively to cover past

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[297] Ibid c290-1GC
[298] Ibid c291
[299] HL Deb 20 January 2014 c293GC
[300] Ibid c294GC
[301] Ibid c295GC
[302] Ibid c296GC
[303] HC Deb 1 July 2013 c604

calculations and for them to come into effect from Royal Assent to reduce the period in which the practice and the legislation are out of alignment.

> The second set of amendments—Amendments 67A and 67B—relates to the provisions in the Bill that establish a long-service compensation cap in the PPF. Those provisions in Clause 47 already make provision for how the long-service cap will apply in the calculation of PPF compensation for individuals in the PPF when the long-service cap legislation is commenced. The amendments deal with how the long-service cap should be applied when a scheme is either undergoing assessment by the PPF or winding up when the long-service cap is introduced. When the legislation commences, a scheme could be in the PPF assessment period—that is, being considered for entry to the PPF, or the scheme could be in wind-up.
>
> Members of schemes in the assessment period will see their payments increased to reflect the long-service cap. However, any valuation of the scheme's liabilities as part of the assessment period will continue to be based on the current cap structure. Any scheme that winds up outside the PPF, after being in assessment or not, will allocate its assets against the current cap structure.[304]

At Report Stage, the Government made some further technical amendments to the provisions. Lord Freud explained:

> As noble Lords will be aware, we are proposing to change the compensation cap in the Pension Protection Fund to recognise long service in a scheme. The standard cap shall be increased by 3% for each year of pensionable service over 20 years. Schedule 20 contains most of the provisions needed to implement the long-service cap. However, some technical amendments are needed to reflect particular situations and I shall address them in groups.
>
> Amendments 32 to 34 deal with the identification of pensionable service for certain individuals—obviously an important issue, given that the long-service cap kicks in once a person has 21 years of service. For example, a person who has been a member of a scheme for 10 years has that amount of pensionable service. However, they might also have transferred into that scheme a pension built up in a previous employment. Where the PPF has deemed service, say 15 years, in respect of this transfer, these amendments will permit the two periods to be added together so that the individual will be treated as if they had 25 years' service in total.
>
> Amendments 37 and 38 deal with a scheme in the process of assessment when the legislation commences, where the scheme applies for the decision not to transfer the scheme to the PPF to be reconsidered. While the application is being considered, the current cap will apply for the purposes of assessing the scheme's protected liabilities.
>
> Amendments 35, 36, 39 and 40 are needed to clarify the scope of the legislation dealing with those who are in receipt of compensation when the long-service cap becomes law, for people sharing compensation and with benefits entitlements arising at different times. Amendment 41 is a minor correction needed to the current legislation.
>
> In Grand Committee, the Government tabled a new clause, now Clause 50, dealing with the compensation cap. As my noble friend Lord Bates explained at the time, the clause was needed to ensure that the legislation reflects the policy and current practice when applying the compensation cap separately to compensation based on benefits deriving from different sources which are payable on the same day—for example,

[304] HL Deb 20 January 2014 c297GC

where an individual has entitlement to a pension but also a pension credit deriving from a divorce settlement. Clause 50 has a retrospective effect so as to cover payments already made. However, it applies only to cases where the two benefits were payable on the same date.

> Amendment 41 is needed to provide retrospective cover in cases where compensation derived from different sources is payable on different dates. It modifies the relevant provision of the Pensions Act 2004 to allow us to bring forward regulations that have a retrospective effect, so that such payments already made in accordance with the accepted policy and practice are covered.[305]

Public service pension schemes – transitional arrangements

The Government introduced a new clause that would make a "small change" to the *Public Service Pensions Act 2013* to enable members of smaller public bodies schemes (such as that administered by the UK Atomic Energy Authority) to benefit from the transitional protection arrangements in the Act for those closest to retirement. The Government's intention was that such schemes should be consolidated into the larger public service schemes. However, the current phrasing of the Act limited transition protection in the larger schemes to "persons who were members of an existing scheme, or who were eligible to be members of such a scheme, immediately before 1 April 2012". The amendment removed the necessity to leave smaller schemes to provide for transitionally protected members who did not meet this criterion.[306]

Pension Protection Fund and schemes with 'protected persons' rules

The PPF assumes responsibility for an eligible occupational pension scheme where the employer has experienced an insolvency event and the scheme is insufficiently funded to pay benefits at the level that would be provided under the PPF. PPF compensation levels may be less than what an employee would have received had the employer remained solvent and the scheme not been wound up.[307]

Lord Dubs argued that it was unfair that reductions in benefits should apply to members of the Jarvis Pension Scheme, which included protection arrangements made on the privatisation of British Rail in 1994.[308] However, the sponsoring employer had since become insolvent and the scheme had entered a PPF assessment period. Lord Dubs said:

> Undertakings were given at the time of rail privatisation. I quote from a Written Answer given by the Secretary of State, John MacGregor. He said:
>
>> "My objective remains to preserve the security of rights enjoyed by pensioners and members while adopting arrangements to suit the new structure of the privatised industry. The proposals I am announcing today meet this objective".—[*Official Report*, Commons, 20/5/1993; col. 235W.]
>
> He went on—it was a longer answer—but, essentially, workers in the company would legitimately have believed that their pensions were protected. I appreciate that nobody foresaw that the company would go into administration. It was assumed that the protection would transfer with the workers into Jarvis. Nobody at that time anticipated what would happen to Jarvis. Nevertheless, in moral terms, the Jarvis workers have a right. They could not foresee that their company would go into administration, yet they

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[305] HL Deb 26 February 2014 c982

[306] HL Deb 20 January 2014 c298-9GC

[307] For details see Pension Protection Fund website - compensation

[308] See also, HC Deb 29 October 2013 c814 [John McDonnell]

> lost a significant proportion of their pension entitlement. That is unfair, and it is only proper to ask the Government to step in, whether by accepting this amendment or by another method.[309]

Lord Bates responded that:

> The railways pension scheme is a multi-employer sectionalised scheme. The different sections of the scheme are covered by the full provisions of the pension protection regime. The sections have to meet the funding requirements, debt requirements and compensation arrangements. They are covered by the Pension Protection Fund and pay the pension protection levy. This means that the scheme has been making specific payments to provide its members with protection in the event of any of the sponsoring employers becoming insolvent.[…]If this amendment were made, the Government would be responsible for covering a scheme's liabilities if the employer became insolvent. Sponsoring employers would therefore not have to worry about the liabilities of certain members. The noble Lord, Lord Dubs, rightly referred to moral sensibilities, which of course we have, but there is also the danger of moral hazard if the Government were to stand in that way.[310]

Lord Dubs said he would consider coming back to the issue on Report.[311]

Annuity brokerage service

Lord Browne moved an amendment proposing the introduction of an annuity brokerage service for members of defined contribution schemes:

> Annuities are one area of pension policy where the buyer deals directly with the provider and makes choices. With independent support, those choices would be informed ones. Independent support would protect savers from making poor choices that could reduce their income by up to 20%. Also, it might help divert us away from the next financial mis-selling scandal, or at least protect Parliament from the criticism that it failed to act when presented with evidence of the need to do so.[312]

Lord Bates responded that the Government would evaluate the extent of change in the market before deciding how to proceed:

> The Government will therefore be assessing the ABI evaluation of the code of conduct planned for later this year, and the Pensions Regulator will be assessing the impact of the new guidance this summer. We will also be looking at other indicators to assess the extent of change in the market.
>
> Wider regulatory activity includes the Financial Conduct Authority's thematic review of annuities and consideration of a market study. The review will assess the extent of detriment to consumers of not shopping around—the numbers presented this afternoon have been quite startling and stark—and will consider other indicators of risk, such as insurers' retention rates and whether profits in the market are high or unreasonably high. The FCA will report later this quarter. In addition, Her Majesty's Treasury and the Department for Work and Pensions are currently reviewing the broad range of available research and statistics on decumulation to explore the impacts and interactions between market and consumer behaviour and government policy.[313]

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309 HL Deb 20 January 2014 c300GC
310 Ibid c300GC
311 Ibid c302GC
312 Ibid c305 GC
313 Ibid c306GC

At Report Stage on 26 February, Lord Browne again moved an amendment to require the provision of an independent annuity brokerage service. This was needed because "annuities are a complex product and decumulation is a complex process." People needed independent advice and paying for it was beyond the grasp of most people. The need to strengthen the buyer side of the market was clear from the recent reports of the Financial Services Consumer Panel and Financial Conduct Authority. There were already 400,000 people buying an annuity each year and the number would escalate when the impact of auto-enrolment started to kick in.[314]

Lord Freud agreed that it was critical that individuals made the right decision about their retirement income. Action was being taken to help them with this: the ABI Code of Practice was designed to tackle the "worst of the inertia selling practices"; guidance from the Pensions Regulator set out expectations for what trustees should provide for scheme members; Individuals had access to free and independent advice from the Money Advice Service and the Pensions Advisory Service. However, he did not think the proposed solution was the right one:

> Making annuity brokers the first port of call for all would simply create a captive market for one part of the industry without effectively adding to consumer protections. Annuity brokers, unless they are also FCA-regulated advisers, are not required to ensure that the product is suitable for the consumer. I must be absolutely clear on this point: this measure would not provide the member with regulated advice.[…] This Government's position is that it is essential for people to understand all their options, not just annuities, and to work with relevant bodies to ensure that appropriate help is available. Clearly, our work is not complete. However, we do not believe that this amendment, pushing people down a single product path, is the right solution.[315]

Lord Browne said his amendment was intended, in a flexible way, to provide a process of engagement, discussion and consultation that would allow best practice to develop in this area. It was defeated on division by 197 votes to 131.[316]

For more on the background to this, see Library Note SN 6552 Pensions: annuities.

Restrictions on NEST

The target group for the National Employment Savings Trust (NEST) is a group that commercial providers had found it difficult to serve profitably, including: low to moderate earners, smaller employers, and employers with a high labour market churn. The Labour Government was concerned to ensure that NEST focused on its target group so that it complemented rather than replacing existing provision. It therefore legislated to place an annual cap on contributions to NEST and to restrict transfers into it. These restrictions were to be reviewed in 2017.[317] The current Government announced in July 2013, that it would lift the restrictions, although not immediately. The contribution cap and the prohibition on bulk transfers are to be removed in 2017. The restriction on individual transfers is to be lifted earlier, when a new mechanism for a person's pension to move with them when they change jobs is introduced, possibly in 2016.[318]

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[314] HL Deb 26 February 2014 c973-6
[315] Ibid c977
[316] Ibid c978
[317] *Pensions Act 2008,* section 74; Explanatory Notes, para 176
[318] Supporting automatic enrolment: government response to the call for evidence on NEST constraints, 9 July 2013

Baroness Sherlock moved an amendment that would require the restrictions to be lifted earlier.[319] Lord Bates responded that the Government wanted NEST to focus on the implementation challenge and that removing the restrictions by 2017 was the right approached. The Government had submitted a formal notification of its intentions to the European Commission:

> The Commission will provide its response in due course. Once this has been received, the Government intend to consult on draft regulations and bring forward secondary legislation later this year to lift the constraints in 2017.[320]

Baroness Sherlock was disappointed with the response:

> We should do everything possible to enable NEST to build an appropriate level of scale and to enable it—far from distracting itself—to do precisely what it was set up for: to fulfil its public service obligation by delivering a high-governance, low-charge offer to those who can benefit from it.[321]

For more on the background to this, see Library Note SN 6415 National Employment Savings Trust – 2012 onwards.

Regulations and orders

The Government amended the Bill in response to recommendations of the Delegated Powers and Regulatory Reform Committee. Lord Bates explained:

> They provide that regulations made under certain powers in the Bill would be subject to the affirmative resolution procedure. I am grateful to the Committee for its consideration of the powers in the Bill and subsequent report.
>
> As I do not wish to detain noble Lords for too long, I thought it would be helpful to briefly outline the regulation-making powers affected by the government amendments. They would provide that the regulations made under the following clauses would be affirmative: Clause 17, which provides for regulations to prescribe the rate at which deferral increments will be calculated for the single-tier pension; Clause 18(3), which provides for regulations to modify the amount of state pension to be used when calculating the deferral increase due where a person has been resident overseas during their period of deferral; Clauses 19 and 31, which provide that regulations may be made to disqualify a prisoner from being paid a single-tier pension or bereavement support payment; Clause 20, which provides for regulations to exclude people who are not ordinarily resident in Great Britain or a specified territory from entitlement to the annual uprates of the single-tier pension; and Clause 33, which provides for regulations to prohibit the offering of incentives with the intention of inducing a member of a defined benefit pension scheme to agree to a transfer of their rights to another pension scheme or arrangement.
>
> Turning now to the other amendments in this group, Amendment 68ZA would make regulations under Clause 17(5) affirmative. As I have already said, Amendment 68 provides for regulations under Clause 17 to be affirmative so this amendment is not necessary. Amendment 68B would make regulations under Clause 42 affirmative. Clause 42 provides for regulations to be made to enable the recovery of Pension Protection Fund levies for past periods. This is a technical area relating to ensuring compliance with EU law on state aid, following a decision by the European Commission and a subsequent ruling of the General Court in respect of the BT pension

[319] Ibid c310 GC
[320] Ibid c312 GC
[321] Ibid c314 GC

scheme. This found that partial exemption from the PPF levies due to the existence of a Crown guarantee constituted unlawful state aid. The Government understand that BT has appealed the ruling of the General Court to the European Court of Justice.

Regulations were made in 2010, following the Commission's decision, to ensure payment of the levies going forward. Clause 42 simply provides for regulations to allow recovery of outstanding levies relating to the period from 2005-06 until 2010, when the regulations took effect. In agreement with the Commission, an escrow account was set up pending the final legal outcome and already holds the maximum amount of risk-based pension protection levy that could be due, plus applicable recovery interest. The Government are not aware of any other scheme in the same position as BT, so any regulations would have limited application.

Given the limited scope of this power and the opportunity to scrutinise the Government's intentions during the passage of the Bill, we consider the negative procedure appropriate in this instance. Any regulations made under this power would simply ensure that the prompt payment to the PPF of the levies for past periods is possible should BT's final legal challenge not succeed. This will ensure that the UK is in compliance with state aid law and so avoid possible fines.[322]

Review of provisions

Baroness Sherlock moved an amendment at Report Stage to require a review of certain provisions in the Bill within a year of enactment. She said:

> This is a major Bill that will have a significant impact on the majority of our citizens—indeed, on pretty much all of those who have yet to reach state pension age. If the Bill proves to be even half as good as the 1948 Act, it may be in place for a long time. The amendment calls for reviews of provisions made in the Bill to check that we have got it right and to enable us to make any necessary adjustments for those who are unfairly disadvantaged, or where provisions seem not to be working as we might have hoped.
>
> Paragraph (a) of the proposed new clause calls for a review of existing and future beneficiaries of the state pension scheme. When there are winners and losers we should review that to make sure that we have got the balance right. We should also include within the review an assessment of whether transitional arrangements are adequate and working.
>
> Paragraph (b) relates to the operation of private pension schemes. Given the debates this evening, I hardly need detain the House further by sharing our views on whether the private pensions system is working well; I think that we all know that there are challenges. Some of the changes that are needed, such as to the annuity market, may well need primary legislation, but many will not. The review will take the opportunity to look at whether the various changes, legislative or not, which the Government have made and promised, are working effectively.
>
> Paragraph (c) relates to the concerns expressed by many women born between 6 April 1951 and April 1953. I am sure that all noble Lords have had many communications from women in that category who are affected. In Grand Committee, the Minister was pressed by various noble Lords, including my noble friend Lady Hollis and the noble Lord, Lord Paddick, to be clear as to whether or not this cohort of women would be better or worse off under the new system. The assumption of the Government is that they will be better off, but I never got a satisfactory response to the question I posed in Committee as to why the Government think that women born between 1951 and 1953 are better off under existing arrangements, and yet also claim that women will mostly

[322] Ibid c315-7GC

be better off under the new pension arrangements. I still do not quite understand how both can be right. The amendment asks the Government to report to Parliament on the actual impact of these provisions, rather than simply relying on analysis of what the impact is likely to be.

Paragraph (d) focuses on the need for a review of the knowledge of young people of the system. Young people currently face a challenging work environment with high youth unemployment, the potential for high debts if they go to university and astonishingly high rents. We may safely conclude that, for most of them, concern about living in poverty in their dotage is not chief among their concerns, so a call to start contributing to an auto-enrolled pension may not ring loud. Yet that is of course the very best time to address those concerns.[323]

Lord Freud set out the Government's plans for monitoring the impact of the provisions:

> As a society we are asking people to do more to think ahead and plan for their retirement. As a Government it is our duty to do the same in looking at the retirement outcomes of the population as a whole. Our retirement outcomes framework, published in September 2013, provides an overview of projected future retirement incomes, looking at the impacts of government pension reforms as a whole and across state and private systems.
>
> We will update the modelling as evidence becomes available on the impact on work and saving of automatic enrolment, the single-tier state pension, and state pension age changes. As noble Lords will know, the department conducts a six-monthly tracking study of attitudes and behaviours in relation to pensions, later life and automatic enrolment. A similar exercise will start after Royal Assent, to monitor awareness and understanding of the reforms.
>
> We are committed to the principle of post-legislative scrutiny, but such scrutiny must have scope to provide insights beyond the impact assessment and consultation practices to which we are already committed. I know that the noble Baroness accepts the point on timing, but the timing of this amendment would not add materially to the powers of the Work and Pensions Select Committee. Indeed, there is an awkwardness about the timing, because it straddles the next election. However, we look forward to continuing to develop pensions strategy with that committee's input.[324]

Baroness Sherlock pressed him to do two things:

> The first is to give particular attention to the two groups mentioned by my noble friend Lady Hollis. The women born from 1951 to 1953 feel very strongly that they have missed out on something important with this. If the Government turn out to be right, and they are better off under the current system, it is important not just that the Government find that out but that they share that knowledge as widely as possible. If that is the case, those women will be reassured—and, if not, they have a right to know anyway. Can the Minister also look at the position of those who would have been affected by, for example, the removal of derived rights, and whether the transitional protections are working well for them?
>
> Secondly, as well as all the work that has been done to an appropriate timescale, will the Minister give some thought to how that might best be shared with the House?[325]

She withdrew the amendment.

[323] HL Deb 26 February 2014 c985
[324] Ibid c987
[325] Ibid c988