

Public Service Pensions and Judicial Offices Bill [HL]

MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF COMMONS AMENDMENTS

[The page and line references are to Bill 211, the Bill as first printed for the Commons]

Clause 1

COMMONS AMENDMENT 1

- 1 Page 2, line 3, leave out leave out subsection (4) and insert –
- “(4) The second condition is that the service in question is –
- (a) pensionable service under a Chapter 1 legacy scheme,
 - (b) pensionable service under a Chapter 1 new scheme that would have been pensionable service under a Chapter 1 legacy scheme but for the person’s failure to meet a condition relating to the person’s attainment of normal pension age, or another specified age, by a specified date, or
 - (c) excess teacher service.
- The second condition is met if all of the service in question falls within paragraphs (a) to (c) (even if it does not all fall within only one of those paragraphs).”

COMMONS AMENDMENT 2

- 2 Page 2, line 37, at end insert “, or
- (c) is, as a result of a local government contracting-out transfer, pensionable service under a pension scheme that offers pension arrangements that are broadly comparable with those offered to the person before the transfer.”

COMMONS AMENDMENT 3

- 3 Page 3, line 3, after “scheme” insert “or excess teacher service”

Clause 4

COMMONS AMENDMENT 4

4 Page 5, line 4, at end insert –

“(3A) In a case in which any of the person’s remediable service in the employment or office in question is excess teacher service, “the relevant Chapter 1 legacy scheme”, in relation to so much of the person’s remediable service as is excess teacher service, means the local government new scheme mentioned in section 98(2).”

Clause 6

COMMONS AMENDMENT 5

5 Page 7, line 10, leave out “in relation to the scheme”

Clause 10

COMMONS AMENDMENT 6

6 Page 9, line 19, leave out “in relation to the scheme”

Clause 14

COMMONS AMENDMENT 7

7 Page 11, line 21, leave out “in relation to the scheme”

COMMONS AMENDMENT 8

8 Page 12, line 13, leave out “in relation to the Chapter 1 legacy scheme”

Clause 15

COMMONS AMENDMENT 9

9 Page 12, line 27, leave out “in relation to the scheme”

COMMONS AMENDMENT 10

10 Page 13, line 1, leave out “in relation to the Chapter 1 legacy scheme”

Clause 16

COMMONS AMENDMENT 11

11 Page 13, line 37, leave out “in relation to the scheme”

COMMONS AMENDMENT 12

12 Page 13, line 42, leave out “in relation to the scheme”

COMMONS AMENDMENT 13

13 Page 14, line 1, leave out “in relation to the scheme”

Clause 17

COMMONS AMENDMENT 14

- 14** Page 14, line 37, leave out “in relation to the scheme”

Clause 22

COMMONS AMENDMENT 15

- 15** Page 19, line 20, at end insert –
- “(da) provision about the benefits payable in respect of a child of a deceased member where –
 - (i) the member has remediable service in an employment or office, and
 - (ii) the child is not living in the same household as an adult survivor of the member;”

COMMONS AMENDMENT 16

- 16** Page 19, line 20, at end insert –
- “(db) provision about cases in which a person has remediable service in an employment or office any of which is excess teacher service;
 - (dc) provision about cases in which a person has remediable service in an employment or office and also has service in an employment or office as a teacher which –
 - (i) takes place in the period beginning with the day after the closing date and ending with 31 March 2022,
 - (ii) is pensionable service under a Chapter 1 new scheme, and
 - (iii) is not remediable service;”

COMMONS AMENDMENT 17

- 17** Page 19, line 20, at end insert –
- “(dd) provision about cases in which a person has a partnership pension account;”

COMMONS AMENDMENT 18

- 18** Page 19, line 20, at end insert –
- “(de) provision about cases in which a person is made redundant;”

COMMONS AMENDMENT 19

- 19** Page 20, line 17, at end insert –
- ““adult survivor”, in relation to a member of a Chapter 1 scheme who has remediable service, means a surviving spouse, civil partner or other adult who is entitled under the scheme to a pension determined (to any extent) by reference to the member’s remediable service;”

COMMONS AMENDMENT 20

- 20 Page 20, line 19, at end insert—
- ““child”, in relation to a member of a Chapter 1 scheme, means any individual who—
- (a) is entitled to receive benefits under the scheme in their capacity as a child of the member, or
 - (b) would have been entitled to receive benefits under the scheme in that capacity on the assumption that any election under this Chapter was, or was not, made in respect of the member;”

COMMONS AMENDMENT 21

- 21 Page 20, line 19, at end insert—
- ““made redundant”: a reference to a person being “made redundant” includes, in relation to a member of the armed forces, a person becoming entitled to a redundancy payment under—
- (a) Part 2 of the Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No 2) Order 2010 (S.I. 2010/832),
 - (b) the Armed Forces Redundancy Scheme Order 2006 (S.I. 2006/55), or
 - (c) the Armed Forces Redundancy Scheme Order 2020 (S.I. 2020/1298);”

Clause 23

COMMONS AMENDMENT 22

- 22 Page 21, line 5, leave out “in relation to the scheme”

Clause 25

COMMONS AMENDMENT 23

- 23 Page 22, line 11, leave out “in relation to the scheme”

COMMONS AMENDMENT 24

- 24 Page 22, line 15, leave out “in relation to the scheme”

Clause 27

COMMONS AMENDMENT 25

- 25 Page 24, line 20, leave out “given by the Treasury”

COMMONS AMENDMENT 26

- 26 Page 24, line 22, leave out “the Treasury has consulted” and insert “consultation with”

Clause 30

COMMONS AMENDMENT 27

27 Page 26, line 32, leave out “in relation to the scheme”

Clause 38

COMMONS AMENDMENT 28

28 Page 30, leave out lines 28 to 33

COMMONS AMENDMENT 29

29 Page 30, line 44, leave out from beginning to end of line 11 on page 31

COMMONS AMENDMENT 30

30 Page 31, line 48, leave out “Part” and insert “Chapter”

Clause 39

COMMONS AMENDMENT 31

31 Page 32, line 12, leave out “all of”

COMMONS AMENDMENT 32

32 Page 32, line 17, at end insert –

“The second condition is met if all of the service in question falls within paragraphs (a) and (b) (even if it does not all fall within only one of those paragraphs).”

Clause 62

COMMONS AMENDMENT 33

33 Page 50, line 47, leave out “given by the Treasury”

COMMONS AMENDMENT 34

34 Page 51, line 1, leave out “the Treasury has consulted” and insert “consultation with”

Clause 75

COMMONS AMENDMENT 35

35 Page 55, leave out lines 34 to 39

Clause 77

COMMONS AMENDMENT 36

36 Page 57, line 3, leave out Clause 77

Clause 78

COMMONS AMENDMENT 37

37 Page 57, line 33, leave out Clause 78

Before Clause 79

COMMONS AMENDMENT 38

38 Insert the following new Clause –

“Meaning of “remediable service”

- (1) For the purposes of this Chapter any continuous period of service of a person in an employment or office is “remediable service” in that employment or office if the following four conditions are met.
- (2) In this section “the service in question” means the service mentioned in subsection (1).
- (3) The first condition is that the service in question takes place in the period –
 - (a) beginning with the day after the closing date, and
 - (b) ending with 31 March 2022 or, if earlier, the date on which the person attains legacy scheme normal pension age.
- (4) The second condition is that the service in question is pensionable service under a local government new scheme (including where the service is excess teacher service that is so pensionable by virtue of section 2(1)).
- (5) The third condition is that the person was, on 31 March 2012 or any earlier day, in pensionable service under –
 - (a) a Chapter 1 legacy scheme (within the meaning of Chapter 1),
 - (b) a judicial legacy scheme (within the meaning of Chapter 2), or
 - (c) a local government legacy scheme.
- (6) The fourth condition is that there is no disqualifying gap in service falling within the period –
 - (a) beginning with the day after the most recent day in relation to which the third condition is met, and
 - (b) ending with the day before the first day of the service in question.
- (7) In subsection (3) –

“the closing date” means –

 - (a) 31 March 2014 in relation to service which is pensionable service under regulations under section 7 of SA 1972 which relate to persons in England and Wales;
 - (b) 31 March 2015 in relation to service which is pensionable service under any other local government new scheme;

“legacy scheme normal pension age” means –

 - (a) in a case in which the person meets the third condition in relation to a local government legacy scheme, the person’s normal pension age under that scheme;
 - (b) otherwise, the age of 65.

- (8) In subsection (6) “disqualifying gap in service” means a period longer than 5 years at no time during which is the person in service in an employment or office which –
- (a) is pensionable service under –
 - (i) a Chapter 1 scheme (within the meaning of Chapter 1),
 - (ii) a judicial scheme (within the meaning of Chapter 2), or
 - (iii) a local government scheme,
 - (b) is, as a result of a Fair Deal transfer, pensionable service under a Fair Deal scheme, or
 - (c) is, as a result of a local government contracting-out transfer, pensionable service under a pension scheme that offers pension arrangements that are broadly comparable with those offered to the person before the transfer.”

COMMONS AMENDMENT 39

39 Insert the following new Clause –

“Power to pay final salary benefits

- (1) Scheme regulations for a local government new scheme may make provision under which the benefits payable under the scheme, so far as they are determined by reference to a member’s remediable service in any employment or office, are final salary benefits.
- (2) The reference in subsection (1) to remediable service includes –
 - (a) remediable service within the meaning of Chapter 1 that has been transferred in from a Chapter 1 scheme, and
 - (b) remediable service within the meaning of Chapter 2 that has been transferred in from a judicial scheme.
- (3) Scheme regulations made by virtue of subsection (1) may, in particular, include provision under which final salary benefits are only payable under the scheme to or in respect of a person who has service in multiple employments or offices if –
 - (a) so much of the service as is otherwise pensionable under another local government scheme, or under a Chapter 1 scheme or a judicial scheme, is transferred in to the scheme, or
 - (b) the service is aggregated for the purposes of determining those benefits.
- (4) Scheme regulations for a local government new scheme may make provision under which the benefits payable under the scheme, so far as they are determined by reference to a member’s final salary transferred-in service in any employment or office, are final salary benefits.
- (5) For the purposes of subsection (4) a member’s service in an employment or office is “final salary transferred-in service” if –
 - (a) the service has been transferred in from another pension scheme, and
 - (b) before the transfer, the benefits payable under that other scheme, so far as determined by reference to the service, were final salary benefits.

- (6) Except as provided by the preceding provisions of this section, scheme regulations for a local government new scheme may not make provision under which the benefits payable under the scheme that are determined by reference to a member's pensionable service in an employment or office are final salary benefits."

COMMONS AMENDMENT 40

40 Insert the following new Clause –

“Section (*Power to pay final salary benefits*): transitional provision

- (1) Any provision of scheme regulations that –
- (a) was, at any time before the coming into force of section (*Power to pay final salary benefits*)(1), made (or purportedly made) in relation to a local government new scheme under –
 - (i) section 18 of PSPA 2013 or section 18 of PSPA(NI) 2014 (restriction of existing pension schemes), or
 - (ii) any other enactment, and
 - (b) could have been made under section (*Power to pay final salary benefits*)(1) if it had been in force at that time,
- is treated as having been made under section (*Power to pay final salary benefits*)(1).
- (2) Section (*Power to pay final salary benefits*)(6) does not affect the continued operation of any scheme regulations made before the coming into force of that provision.”

COMMONS AMENDMENT 41

41 Insert the following new Clause –

“Pension credit members

- (1) Scheme regulations for a local government new scheme may make provision about the benefits payable to or in respect of a relevant pension credit member and the corresponding pension debit member.
- (2) In this section “relevant pension credit member”, in relation to a local government new scheme, means a member of the scheme who has rights under the scheme –
- (a) which are attributable (directly or indirectly) to a pension credit, and
 - (b) the value of which was determined (to any extent) by reference to the value of benefits payable in respect of the remediable service in an employment or office of another member.
- (3) In this section “the corresponding pension debit member”, in relation to a relevant pension credit member, means the member mentioned in subsection (2)(b).
- (4) The provision that may be made by scheme regulations under this section includes, in particular –
- (a) provision modifying any provision of this Chapter in its application to persons of a description specified in the regulations;
 - (b) provision corresponding to, or applying, any provision of this Chapter, with or without modifications.

- (5) In this section –
- “modifying” includes disapplying or supplementing (and cognate expressions are to be construed accordingly);
 - “pension debit” means a debit under section 29(1)(a) of WPRA 1999 or Article 26(1)(a) of WRP(NI)O 1999;
 - “pension credit” means a credit under section 29(1)(b) of WPRA 1999 or Article 26(1)(b) of WRP(NI)O 1999.”

COMMONS AMENDMENT 42

42 Insert the following new Clause –

“Further powers to make provision about special cases

- (1) Scheme regulations for a local government new scheme may make further provision relating to a member who has remediable service in an employment or office.
- (2) The provision that may be made under subsection (1) includes, in particular, provision about cases in which a person has remediable service in an employment or office any of which is excess teacher service.
- (3) Scheme regulations for a local government new scheme may make provision about injury and compensation benefits payable under a relevant injury and compensation scheme to or in respect of a member who has remediable service in an employment or office.
- (4) Provision made under subsection (3) may in particular be made by amending the relevant injury and compensation scheme.
- (5) In subsections (3) and (4) and this subsection –
 - (a) “injury and compensation scheme” means a pension scheme that is listed in Schedule 6 to PSPA 2013 or Schedule 6 to PSPA(NI) 2014 (existing injury and compensation schemes);
 - (b) an injury and compensation scheme is “relevant”, in relation to a local government new scheme, if it is connected with the local government new scheme;
 - (c) a reference to “injury and compensation benefits” payable under an injury and compensation scheme is a reference to –
 - (i) in the case of an injury and compensation scheme in relation to which Schedule 6 to PSPA 2013 or Schedule 6 to PSPA(NI) 2014 specifies particular benefits, those benefits;
 - (ii) in the case of any other injury and compensation scheme, any benefits payable under the scheme.
- (6) The provision that may be made by scheme regulations under this section includes, in particular –
 - (a) provision modifying any provision of this Chapter in its application to persons of a description specified in the regulations;
 - (b) provision corresponding to, or applying, any provision of this Chapter, with or without modifications.
- (7) In this section “modifying” includes disapplying or supplementing (and cognate expressions are to be construed accordingly).”

COMMONS AMENDMENT 43

43 Insert the following new Clause –

“Power to pay compensation

- (1) The scheme manager for a local government new scheme may pay amounts by way of compensation in respect of compensatable losses incurred by members or, in the case of deceased members, their personal representatives.
- (2) Scheme regulations for a local government new scheme may make provision under which an employer in relation to the scheme is required to reimburse the scheme manager for amounts paid under subsection (1).
- (3) For the purposes of this section a loss incurred by a member, or by a member’s personal representatives, is “compensatable” if and to the extent that –
 - (a) either of the following conditions is met, and
 - (b) the loss is of a description specified in Treasury directions.
- (4) The first condition is that the loss is attributable to, or is reasonably regarded as attributable to, a relevant breach of a non-discrimination rule.
- (5) The second condition is that the loss is attributable to the application of any provision of, or made under, this Chapter.
- (6) In this section (subject to subsection (8)) “loss” includes a loss of any kind including, in particular, a Part 4 tax loss.
- (7) In this section “Part 4 tax loss”, in relation to a member, means a loss arising as a result of the member –
 - (a) incurring a charge, or incurring an increased charge, under Part 4 of FA 2004, or
 - (b) not being entitled to a relief, or being entitled to less relief, under that Part of that Act.
- (8) In this section “loss” does not include an amount that is payable under this Chapter or under regulations made by virtue of this Chapter.
- (9) In this section “non-discrimination rule” means a rule that is, or at any time was, included in a local government scheme by virtue of –
 - (a) section 61 of EA 2010, or
 - (b) paragraph 2 of Schedule 1 to EEAR(NI) 2006.
- (10) For the purposes of this section a breach of a non-discrimination rule is “relevant” if it arises from the application of a provision of scheme regulations made before 1 April 2022 under which the benefits payable under the scheme that are determined by reference to a member’s pensionable service in an employment or office are final salary benefits.
- (11) Subsection (1) does not confer power to pay amounts by way of compensation in respect of compensatable losses so far as –
 - (a) any person has already received amounts by way of compensation in respect of them, or
 - (b) amounts that any person has paid the scheme have been reduced by amounts in respect of them,
 whether pursuant to an order of a court or tribunal or otherwise.”

COMMONS AMENDMENT 44

44 Insert the following new Clause –

“Indirect compensation

- (1) Scheme regulations for a local government new scheme may make provision under which, where a member has incurred a compensatable loss that is a Part 4 tax loss –
 - (a) the member is not paid an amount under section (*Power to pay compensation*) by way of compensation in respect of the loss, and
 - (b) the member is instead paid such additional benefits under the scheme as may be determined in accordance with the regulations.
- (2) In this section “compensatable loss” and “Part 4 tax loss” have the same meaning as in section (*Power to pay compensation*).”

COMMONS AMENDMENT 45

45 Insert the following new Clause –

“Interest and process

- (1) Scheme regulations for a local government new scheme may make provision –
 - (a) under which interest is required to be calculated and paid on relevant amounts;
 - (b) about the process by which relevant amounts (and any interest on them) are to be paid.
- (2) Scheme regulations made by virtue of subsection (1)(b) may, in particular, include provision –
 - (a) about when relevant amounts (and any interest on them) are to be paid (including provision under which they are paid in instalments);
 - (b) under which relevant amounts (and any interest on them) may be paid only on the making of an application;
 - (c) conferring rights of appeal against decisions taken under the regulations.
- (3) In this section “relevant amounts” means any amounts that are payable by the scheme to a person under or by virtue of this Chapter.”

COMMONS AMENDMENT 46

46 Insert the following new Clause –

“Treasury directions

- (1) The powers mentioned in subsection (2) must be exercised in accordance with Treasury directions.
- (2) The powers are –
 - (a) the power to make scheme regulations by virtue of section (*Pension credit members*) (pension credit members) and any powers exercisable by virtue of such regulations;

- (b) the power to make scheme regulations by virtue of section (*Further powers to make provision about special cases*) (further powers to make provision about special cases) and any powers exercisable by virtue of such regulations;
 - (c) the power of a scheme manager under section (*Power to pay compensation*)(1) (power to pay compensation);
 - (d) the power to make scheme regulations by virtue of section (*Power to pay compensation*)(2) (power to require employer to reimburse compensation paid by scheme manager) and any powers exercisable by virtue of such regulations;
 - (e) the power to make scheme regulations by virtue of section (*Indirect compensation*)(1) (indirect compensation) and any powers exercisable by virtue of such regulations;
 - (f) the power to make scheme regulations by virtue of section (*Interest and process*)(1) (interest and process) and any powers exercisable by virtue of such regulations.
- (3) Treasury directions under this section may provide for amounts that are to be paid by a scheme in relation to a member to be determined –
- (a) taking into account the particular circumstances of the member and (if different) the person to whom the amount is to be paid, or
 - (b) without taking into account any or all of the particular circumstances of that person or those persons.
- (4) Treasury directions under this section that relate to the calculation and payment of interest, and variations and revocations of such directions, may only be made after consultation with the Government Actuary.
- (5) For the definition of “Treasury directions”, see section (*Interpretation of Chapter*)(1).”

After Clause 79

COMMONS AMENDMENT 47

47 Insert the following new Clause –

“Interpretation of Chapter

- (1) In this Chapter –
- “Chapter 1 scheme” has the same meaning as in Chapter 1;
 - “final salary benefits” has the meaning given by subsection (2);
 - “judicial scheme” has the same meaning as in Chapter 2;
 - “local government legacy scheme” has the meaning given by section 79(3);
 - “local government new scheme” has the meaning given by section 79(2);
 - “local government scheme” has the meaning given by section 79(1);
 - “scheme regulations” –
 - (a) in relation to a local government new scheme within section 79(2)(a) has the same meaning as in PSPA 2013 (see section 1(4) of that Act);
 - (b) in relation to a local government new scheme within section 79(2)(b) has the same meaning as in PSPA(NI) 2014 (see section 1(4) of that Act);

“Treasury directions” means –

- (a) in relation to a local government scheme within section 79(2)(a) or (3)(a), directions given by the Treasury;
 - (b) in relation to a local government scheme within section 79(2)(b) or (3)(b), directions given by the Department of Finance in Northern Ireland.
- (2) For the purposes of this Chapter, benefits payable under a pension scheme to or in respect of a member are “final salary benefits” if they are determined by reference to the member’s pensionable earnings, or highest, average or representative pensionable earnings, in a specified period ending at, or defined by reference to –
- (a) the time when the member’s pensionable service in relation to the scheme ends, or
 - (b) the time when the member attains normal pension age under a local government legacy scheme.
- (3) Where –
- (a) a member of a pension scheme has service in multiple employments or offices that is pensionable service under the scheme, and
 - (b) the service is aggregated for the purpose of determining the amount of any benefit under the scheme,
- the service is treated for the purposes of this Chapter as service in a single employment or office (and references to the employment or office in relation to the service are to be read accordingly).”

After Clause 83

COMMONS AMENDMENT 48

48 Insert the following new Clause –

“Employer cost cap

Amendments relating to employer cost cap

- (1) Section 12 of PSPA 2013 (employer cost cap) is amended in accordance with subsections (2) to (9).
- (2) After subsection (1) insert –
 - “(1A) Subsection (1) must be complied with before the end of the period of one year beginning with the day on which the scheme’s first valuation under section 11 is completed.”
- (3) For subsection (2) substitute –
 - “(2) A reference in this section to “the employer cost cap” of a scheme under section 1 is a reference to the rate set by virtue of subsection (1) in relation to the scheme.”
- (4) In subsection (3) –
 - (a) after “cap” insert “of a scheme under section 1”;
 - (b) after “set” insert “, and the changes in the cost of such a scheme are to be measured,”.

- (5) In subsection (4) –
- (a) in paragraph (a), for “the cap” substitute “the employer cost cap of the scheme”;
 - (b) in paragraph (b) –
 - (i) for “subsequent valuations” insert “the second or any subsequent valuation”;
 - (ii) for “the cap” substitute “the employer cost cap of the scheme”;
 - (c) in paragraph (c) –
 - (i) for “the extent to which” substitute “whether and if so to what extent”;
 - (ii) for “of this section” substitute “mentioned in paragraph (b)”;
 - (d) after paragraph (c) insert –
 - “(d) that the data, methodologies and assumptions that are to be used for the purposes mentioned in paragraph (b) are to relate, to any extent, to –
 - (i) the growth in the economy, or any sector of the economy, of the United Kingdom or any part of the United Kingdom,
 - (ii) the growth in earnings of any group of persons over any period, or
 - (iii) the rate of inflation (however measured) over any period.”
- (6) After subsection (4) insert –
- “(4A) The power to give directions by virtue of subsection (4)(d) is not affected by any statement made before 27 May 2021 by the Treasury, or any Minister of the Crown, relating to the data, methodologies and assumptions that are, or are not, to be used for the purposes mentioned in subsection (4)(b).”
- (7) In subsection (5)(a) for “(and any connected scheme)” substitute “(determined, if and so far as provided for by virtue of subsection (4)(c), taking into account the costs of any connected scheme)”.
- (8) In subsection (6), in the opening words –
- (a) for “the scheme” substitute “a scheme under section 1”;
 - (b) for “the margins” substitute “either of the margins specified under subsection (5)(a)”.
- (9) After subsection (7) insert –
- “(7A) Treasury directions may specify the time at which any increase or decrease of members’ benefits or contributions that is provided for under subsection (6) is to take effect.
- (7B) Treasury directions may require that provision contained in scheme regulations under subsection (6) permits steps to be –
- (a) agreed by virtue of paragraph (a) of that subsection, or
 - (b) determined by virtue of paragraph (b) of that subsection, only after the scheme actuary has certified that the steps would, if taken, achieve the target cost for the scheme.

- (7C) Treasury directions under subsection (7B) may specify –
- (a) the costs or changes in costs that are to be taken into account, or
 - (b) the data, methodologies and assumptions that are to be used,
- for the purposes of determining whether any steps would, if taken, achieve the target cost for the scheme.
- (7D) In subsection (7B) “the scheme actuary”, in relation to a scheme under section 1, means the actuary who carried out, or is for the time being exercising actuarial functions in relation to, the valuation under section 11 by reference to which it has been determined that the costs of the scheme have gone, or may go, beyond either of the margins specified under subsection (5)(a).”
- (10) Section 12 of PSPA(NI) 2014 (employer cost cap) is amended in accordance with subsections (11) to (19).
- (11) After subsection (1) insert –
- “(1A) Subsection (1) must be complied with before the end of the period of one year beginning with the day on which the scheme’s first valuation under section 11 is completed.”
- (12) For subsection (2) substitute –
- “(2) A reference in this section to “the employer cost cap” of a scheme under section 1 is a reference to the rate set by virtue of subsection (1) in relation to the scheme.”
- (13) In subsection (3) –
- (a) after “cap” insert “of a scheme under section 1”;
 - (b) after “set” insert “, and the changes in the cost of such a scheme are to be measured,”.
- (14) In subsection (4) –
- (a) in paragraph (a), for “the cap” substitute “the employer cost cap of the scheme”;
 - (b) in paragraph (b) –
 - (i) for “subsequent valuations” insert “the second or any subsequent valuation”;
 - (ii) for “the cap” substitute “the employer cost cap of the scheme”;
 - (c) in paragraph (c) –
 - (i) for “the extent to which” substitute “whether and if so to what extent”;
 - (ii) for “of this section” substitute “mentioned in paragraph (b)”;
 - (d) after paragraph (c) insert –
 - (d) that the data, methodologies and assumptions that are to be used for the purposes mentioned in paragraph (b) are to relate, to any extent, to –
 - (i) the growth in the economy, or any sector of the economy, of the United Kingdom or any part of the United Kingdom,

- (ii) the growth in earnings of any group of persons over any period, or
 - (iii) the rate of inflation (however measured) over any period.”
- (15) After subsection (4) insert –
- “(4A) The power to give directions by virtue of subsection (4)(d) is not affected by any statement made before 27 May 2021 by the Department of Finance, or any other department, relating to the data, methodologies and assumptions that are, or are not, to be used for the purposes mentioned in subsection (4)(b).”
- (16) In subsection (5)(a), for “(and any connected scheme)” substitute “(determined, if and so far as provided for by virtue of subsection (4)(c), taking into account the costs of any connected scheme)”.
- (17) In subsection (6), in the opening words –
- (a) for “the scheme” substitute “a scheme under section 1”;
 - (b) for “the margins” substitute “either of the margins specified under subsection (5)(a)”.
- (18) After subsection (7) insert –
- “(7A) Directions given by the Department of Finance may specify the time at which any increase or decrease of members’ benefits or contributions that is provided for under subsection (6) is to take effect.
- (7B) Directions given by the Department of Finance may require that provision contained in scheme regulations under subsection (6) permits steps to be –
- (a) agreed by virtue of paragraph (a) of that subsection, or
 - (b) determined by virtue of paragraph (b) of that subsection, only after the scheme actuary has certified that the steps would, if taken, achieve the target cost for the scheme.
- (7C) Directions under subsection (7B) may specify –
- (a) the costs or changes in costs that are to be taken into account, or
 - (b) the data, methodologies and assumptions that are to be used,
- for the purposes of determining whether any steps would, if taken, achieve the target cost for the scheme.
- (7D) In subsection (7B) “the scheme actuary”, in relation to a scheme under section 1, means the actuary who carried out, or is for the time being exercising actuarial functions in relation to, the valuation under section 11 by reference to which it has been determined that the costs of the scheme have gone, or may go, beyond either of the margins specified under subsection (5)(a).”
- (19) In subsections (3), (4), (5), (8), (9) and (10) omit “and Personnel”.

48A

Lord Davies of Brixton to move, as an amendment to the motion that the House do agree with the Commons in their Amendment 48, leave out “agree” and insert “disagree”.

COMMONS AMENDMENT 49

49 Insert the following new Clause –

“Operation of employer cost cap in relation to 2016/17 valuation

- (1) The requirement in provision made under section 12(5)(a) of PSPA 2013 that the cost of a section 1 scheme must remain within a margin above the employer cost cap of the scheme does not apply, and is treated as never having applied, in relation to the cost of the scheme that is calculated by reference to the scheme’s 2016/17 valuation.
- (2) Accordingly, provision made under section 12(6) of that Act does not apply, and is treated as never having applied, in relation to a case in which the cost of a section 1 scheme that is calculated by reference to the scheme’s 2016/17 valuation goes beyond a margin above the employer cost cap of the scheme.
- (3) In subsections (1) and (2) and this subsection –
 - (a) “section 1 scheme” means a scheme under section 1 of PSPA 2013;
 - (b) “the employer cost cap”, in relation to a section 1 scheme, has the same meaning as in section 12 of PSPA 2013;
 - (c) a reference to a section 1 scheme’s “2016/17 valuation” is to the scheme’s valuation under section 11 of PSPA 2013 the effective date of which is a date in 2016 or 2017.
- (4) The requirement in provision made under section 12(5)(a) of PSPA(NI) 2014 that the cost of a section 1 scheme must remain within a margin above the employer cost cap of the scheme does not apply, and is treated as never having applied, in relation to the cost of the scheme that is calculated by reference to the scheme’s 2016/17 valuation.
- (5) Accordingly, provision made under section 12(6) of that Act does not apply, and is treated as never having applied, in relation to a case in which the cost of a section 1 scheme that is calculated by reference to the scheme’s 2016/17 valuation goes beyond a margin above the employer cost cap of the scheme.
- (6) In subsections (4) and (5) and this subsection –
 - (a) “section 1 scheme” means a scheme under section 1 of PSPA(NI) 2014;
 - (b) “the employer cost cap”, in relation to a section 1 scheme, has the same meaning as in section 12 of PSPA(NI) 2014;
 - (c) a reference to a section 1 scheme’s “2016/17 valuation” is to the scheme’s valuation under section 11 of PSPA(NI) 2014 the effective date of which is a date in 2016 or 2017.
- (7) The actuarial valuation with an effective date of 31 March 2016 that was signed on 18 December 2018 under regulation 123 of the Local Government Pension Scheme Regulations (Northern Ireland) 2014 (S.R. (N.I.) 2014 No. 188) is of no effect.”

Clause 84

COMMONS AMENDMENT 50

50 Page 62, line 20, at end insert –

“(6A) In section 8 of PSPA 2013 (types of scheme), after subsection (4) insert—

“(4A) The extent to which a scheme under section 1 is a career average revalued earnings scheme is not affected by provision contained in scheme regulations that is made under section (*Power to pay final salary benefits*) of PSPJOA 2022 (local government schemes: power to pay final salary benefits).”

COMMONS AMENDMENT 51

51 Page 63, line 18, at end insert—

“(13A) In section 8 of PSPA(NI) 2014 (types of scheme), after subsection (4) insert—

“(4A) The extent to which a scheme under section 1 is a career average revalued earnings scheme is not affected by provision contained in scheme regulations that is made under section (*Power to pay final salary benefits*) of PSPJOA 2022 (local government schemes: power to pay final salary benefits).”

Clause 86

COMMONS AMENDMENT 52

52 Page 66, line 37, leave out Clause 86

After Clause 89

COMMONS AMENDMENT 53

53 Insert the following new Clause—

“Amendments relating to pension schemes for members of the Senedd

In section 30 of PSPA 2013 (new public body pension schemes), after subsection (4) insert—

“(4A) The following provisions of this section do not apply to a new public body pension scheme which is made under section 20(3) of the Government of Wales Act 2006 (remuneration of members of the Senedd: pensions)—

- (a) subsection (1)(e) (cost control);
- (b) subsection (3) (Treasury consent).”

COMMONS AMENDMENT 54

54 Insert the following new Clause—

“Guidance to public service pension scheme managers on investment decisions

- (1) The Public Service Pensions Act 2013 is amended in accordance with subsection (2).
- (2) In Schedule 3, in paragraph 12(a), at end insert “including guidance or directions on investment decisions which it is not proper for the scheme manager to make in light of UK foreign and defence policy”.

54A Lord Davies of Brixton to move, as an amendment to the motion that the House

do agree with the Commons in their Amendment 54, leave out “agree” and insert “disagree”.

Clause 90

COMMONS AMENDMENT 55

- 55 Page 72, line 16, at end insert “, or
(c) a compensatable loss for the purposes of section (*Power to pay compensation*) (power to pay compensation under Chapter 3).”

COMMONS AMENDMENT 56

- 56 Page 72, line 22, at end insert “, or
(c) a member of a local government new scheme within section 79(2)(a) who has remediable service that is pensionable service under the scheme.”

COMMONS AMENDMENT 57

- 57 Page 72, line 27, at end insert –
“(c) in paragraph (c), “local government new scheme” and “remediable service” have the same meaning as in Chapter 3.”

Clause 91

COMMONS AMENDMENT 58

- 58 Page 73, line 11, at end insert –
(c) a compensatable loss for the purposes of section (*Power to pay compensation*) (power to pay compensation under Chapter 3).”

COMMONS AMENDMENT 59

- 59 Page 73, line 17, at end insert “, or
(c) a member of a local government new scheme within section 79(2)(b) who has remediable service that is pensionable service under the scheme.”

COMMONS AMENDMENT 60

- 60 Page 73, line 22, at end insert –
“(c) in paragraph (c), “local government new scheme” and “remediable service” have the same meaning as in Chapter 3.”

After Clause 95

COMMONS AMENDMENT 61

- 61 Insert the following new Clause –
“Parliamentary procedure for judicial schemes: transitory provision
(1) This section applies to scheme regulations for a scheme relating to the judiciary that are made at any time within the period of one month beginning with the day on which this Act is passed.

- (2) A statutory instrument containing scheme regulations to which this section applies must be laid before Parliament after being made.
- (3) Regulations contained in a statutory instrument laid before Parliament under subsection (2) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (4) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (5) If regulations cease to have effect as a result of subsection (3), that does not—
 - (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.
- (6) If regulations otherwise subject to the negative procedure are combined with scheme regulations to which this section applies, the combined regulations are subject to the procedure set out in this section.
- (7) Section 24 of PSPA 2013 (other procedure) does not apply to scheme regulations to which this section applies.
- (8) In this section, the following expressions have the same meaning as in PSPA 2013—
 - “the judiciary” (see paragraph 2 of Schedule 1 to that Act);
 - “negative procedure” (see section 38(3) of that Act);
 - “scheme” (see section 37 of that Act);
 - “scheme regulations” (see section 1(4) of that Act).”

Clause 98

COMMONS AMENDMENT 62

- 62** Page 77, line 15, at end insert—
- ““connected” means—
- (a) connected within the meaning of PSPA 2013 (see section 4(6) and (7) of that Act), or
 - (b) connected within the meaning of PSPA(NI) 2014 (see section 4(6) and (7) of that Act);”

COMMONS AMENDMENT 63

- 63** Page 77, line 48, at end insert—
- ““excess teacher service” has the meaning given by subsection (2)”

COMMONS AMENDMENT 64

- 64** Page 77, line 49, at end insert—

“Fair Deal scheme” means –

- (a) a pension scheme that, in accordance with the Fair Deal Statement of Practice, has been certified by the Government Actuary’s Department as offering, to persons who have been subject to a Fair Deal transfer, pension arrangements that are broadly comparable with those offered to them before the transfer, or
- (b) a pension scheme in relation to which the obligation to give such a certificate has been waived in accordance with that statement of practice;

“Fair Deal Statement of Practice” means the statement of practice entitled “Staff Transfers in the Public Sector” issued by the Cabinet Office in January 2000, as supplemented and modified from time to time;

“Fair Deal transfer” means a transfer of a person’s employment from a public sector employer to a private sector employer in accordance with the Fair Deal Statement of Practice;”

COMMONS AMENDMENT 65

65 Page 78, line 7, at end insert –

“local government contracting-out transfer” means a transfer of a person’s employment that was required to be conducted –

- (a) in accordance with directions given, and having regard to guidance issued, for the purposes of section 101(1) of the Local Government Act 2003 (contracting out: staff transfer matters), or
- (b) having regard to guidance issued for the purposes of section 52 of the Local Government in Scotland Act 2003 (asp 1) (guidance on contractual matters);”

COMMONS AMENDMENT 66

66 Page 79, line 14, at end insert –

“teacher” means teacher within the meaning of PSPA 2013 (see paragraph 4 of Schedule 1 to that Act) or PSPA(NI) 2014 (see paragraph 4 of Schedule 1 to that Act);”

COMMONS AMENDMENT 67

67 Page 79, line 21, at end insert –

“(2) In this Part “excess teacher service” means a person’s service in an employment or office as a teacher where (disregarding section 2(1)) –

- (a) the service is pensionable service under a local government new scheme, or
- (b) the service –
 - (i) is pensionable service under a Chapter 1 new scheme for teachers, and
 - (ii) would have been pensionable service under a local government new scheme but for the person’s failure to meet a condition relating to the person’s attainment of normal pension age, or another specified age, by a specified date.

Service in an employment or office is “excess teacher service” if all of the service falls within paragraphs (a) and (b) (even if it does not all fall within only one of those paragraphs).

- (3) In subsection (2) –
 “Chapter 1 new scheme” has the same meaning as in Chapter 1;
 “local government new scheme” has the same meaning as in Chapter 3.”

Clause 104

COMMONS AMENDMENT 68

68 Page 83, line 7, leave out “Plc” and insert “Limited”

COMMONS AMENDMENT 69

69 Page 83, line 11, leave out first “Plc” and insert “Limited”

Clause 106

COMMONS AMENDMENT 70

70 Page 86, line 6, leave out “Plc” and insert “Limited”

COMMONS AMENDMENT 71

71 Page 86, line 14, leave out “Plc” and insert “Limited”

Clause 117

COMMONS AMENDMENT 72

72 Page 93, line 22, at end insert –
 “(ba) scheme regulations for a local government scheme (within the meaning of Chapter 3 of Part 1), or”

Clause 118

COMMONS AMENDMENT 73

73 Page 93, line 28, at end insert –
 “(1A) In Schedule 3 (judicial offices) –
 (a) Part 4 extends to Northern Ireland only;
 (b) Part 5 extends to England and Wales only.”

Clause 119

COMMONS AMENDMENT 74

74 Page 93, line 32, leave out from beginning to “the” in line 34 and insert –
 “(1) Any provision of, or amendment made by, Part 1 or 3, so far as it –
 (a) confers a power to make subordinate legislation or give directions,
 or

- (b) otherwise relates to”

COMMONS AMENDMENT 75

- 75 Page 94, line 10, leave out paragraph (d) and insert—
 “(d) Chapter 3, and sections 97 and 98 so far as they apply for the purposes of that Chapter, come into force in relation to a local government scheme within section 79(2)(a) or (3)(a) on—
 (i) 1 October 2023, or
 (ii) such earlier day as the Treasury may by regulations appoint;
 (da) Chapter 3, and sections 97 and 98 so far as they apply for the purposes of that Chapter, come into force in relation to a local government scheme within section 79(2)(b) or (3)(b) on—
 (i) 1 October 2023, or
 (ii) such earlier day as the Department of Finance in Northern Ireland may by order appoint;”

COMMONS AMENDMENT 76

- 76 Page 94, line 41, at end insert “, or
 (b) Chapter 3, or sections 97 and 98 so far as they apply for the purposes of that Chapter, in relation to a local government scheme within section 79(2)(b) or (3)(b).”

COMMONS AMENDMENT 77

- 77 Page 94, line 46, after “(2)(b)” insert “, (2)(da)”

Clause 120

COMMONS AMENDMENT 78

- 78 Page 95, line 4, leave out subsection (2)

Schedule 1

COMMONS AMENDMENT 79

- 79 Page 100, leave out lines 42 to 46 and insert—
 “President of the Education Tribunal for Wales
 Member of the legal chair panel, or the lay panel, of the Education Tribunal for Wales”

COMMONS AMENDMENT 80

- 80 Page 105, line 35, leave out “(3)” and insert “(2)”

Schedule 3

COMMONS AMENDMENT 81

- 81 Page 112, leave out lines 37 and 38 and insert—
 “Member of the legal chair panel of the Education Tribunal for Wales”

Public Service Pensions and Judicial Offices Bill [HL]

MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF
COMMONS AMENDMENTS

8 March 2022

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