

PUBLIC SECTOR EXIT PAYMENTS (LIMITATION) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Public Sector Exit Payments (Limitation) Bill as introduced in the House of Commons on 5 September 2017 (Bill 28).

- These Explanatory Notes have been prepared by Sir Christopher Chope MP, Member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.
- The “English Votes for English Laws” (EVEL) provisions of the Standing Orders of the House of Commons related to public business do not apply to Private Members’ Bills. Therefore, these notes do not discuss the application of those Standing Orders.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	2
Policy background	2
Territorial extent and application	3
Commentary on provisions of Bill	3
Clause 1: duty of Treasury to make regulations	3
Clause 2: application of regulation to payments already made	3
Commencement	3
Financial implications of the Bill	3

Overview of the Bill

- 1 The Bill seeks to limit exit payments made by public sector organisations to employees.
- 2 The Treasury has powers to bring forward regulations to limit such payments under Section 153A of the Small Business Enterprise and Employment Act 2015 (as amended by Section 41 of the Enterprise Act 2016). This Bill would require the Treasury to lay draft regulations before Parliament on or before 1st April 2019. The Bill makes provision to enable any restrictions introduced under the first such regulations to apply retrospectively to exit payments made on or after 1 April 2018.

Policy background

- 3 The 2015 Conservative Party manifesto proposed a limit on exit payments for public sector workers. On 23 May 2015 the Treasury issued a press release in support of the inclusion in the Enterprise Bill of a measure to implement that policy. The then Chief Secretary to the Treasury said “We are delivering our manifesto commitment to end six figure pay offs for the best paid public sector workers” and that “These reforms will ensure fairness and value for money across the public sector”.
- 4 Section 41 of the Enterprise Act inserted into the Small Business, Enterprise and Employment Act 2015 new sections 153A to 153C and gave effect to Schedule 6 of the Enterprise Act 2016 which contained consequential and supplementary provisions. This Bill is being brought forward to require the Government to introduce draft regulations to limit public sector exit payments, which it has the power to make but has not yet done so.
- 5 On 27 June 2017, Sir Christopher Chope MP asked the Chancellor of the Exchequer “When the Government plans to bring forward secondary legislation to implement the policy of prohibiting exit payments for public sector employees in England exceeding £95,000; and what steps he is taking to discourage such payments in the interim” (Question 1447). The answer from the new Chief Secretary to the Treasury, of 6th July 2017, was “The Government announced in 2015 that it intended to end six figure exit payments for public sector workers. We legislated for a £95,000 cap in the Enterprise Act 2016 and are currently in the process of drafting the necessary regulations. In the interim the Government expects every part of the public sector to demonstrate that it is using public money efficiently and responsibly and to ensure that pay and terms are always proportionate, justifiable and deliver value for money for tax payers”.
- 6 This Bill was presented to the House of Commons on 5 September 2017 in order to help maintain pressure on the Government to implement exit payment limits. In a further question on 29 November 2017 to the Treasury (Question 116646) Sir Christopher Chope MP enquired about the time table to bring forward the secondary legislation. In a response dated 4 December 2017, the Chief Secretary to the Treasury said that before laying the necessary regulations and to ensure the successful implementation of these changes “We will bring forward a consultation in the first quarter of 2018 which will run for twelve weeks”.
- 7 On 26 February 2018 the Sir Christopher Chope MP asked, in Question 129888, about the plans for the launch of the consultation. The response from the Chief Secretary to the Treasury, dated 1 March 2018, was “To ensure the successful implementation of these changes a consultation will be brought forward in the next few months”.
- 8 On 23 May 2018, Sir Christopher Chope MP asked further questions regarding when the process of drafting the regulations began and when the drafting was forecast to be completed.

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He also enquired as to the reasons why the consultation was not carried out in the first quarter of 2018. In a response dated 4 June 2018, the Chief Secretary to the Treasury said “The Government remains committed to ending six figure pay outs in the public sector. The regulations to implement the exit payment cap were drafted as part of the passage of the Enterprise Act 2016. Since that time, they have undergone further iteration and will be completed following the outcome of the consultation and then laid in Parliament. It is not possible to forecast the hours required to reflect the degree of changes which may be made to the draft regulations following the outcome of the consultation, which will necessarily depend on consultees’ views and the Government’s response to that consultation. The consultation will seek views on the terms of the draft secondary legislation, including the detailed design of the exit payment cap and the list of bodies to which the cap will apply”.

Territorial extent and application

- 9 This Bill applies to England and Wales, Scotland and Northern Ireland.

Commentary on provisions of Bill

Clause 1: duty of Treasury to make regulations

- 10 Clause 1 requires the Treasury to lay before Parliament draft regulations to limit public sector exit payments on or before 1 April 2019.

Clause 2: application of regulation to payments already made

- 11 Clause 2 enables the first regulations to limit exit payments to apply retrospectively to payments made on or after 1 April 2018.

Commencement

- 12 Clause 3 of the Bill states that its provisions would come into force on the day it is passed.

Financial implications of the Bill

- 13 In a Parliamentary answer on 4 June 2018 (Question 147306) the Chief Secretary to the Treasury said that from April 2015 to March 2016 there were 1,787 public sector exit payments of over £100,000 and 5,439 between £50,000 and £100,000.
- 14 The Government’s impact assessment for the Enterprise Bill 2015 stated that “Trends in exit payments over recent years suggest the cap could result in savings in the low hundreds of millions of pounds over the course of this Parliament. This is about ensuring tax payers get a fair deal”.

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