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Committee Stage: Tuesday 25 January 2022

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# Public Service Pensions and Judicial Offices Bill [Lords]

## (Amendment Paper)

This document lists all amendments tabled to the Public Service Pensions and Judicial Offices Bill [Lords]. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New Amendments.

New Amendment: NC14

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Mr Simon Clarke

That the Bill be considered in the following order, namely: Clauses 1 to 109; Schedule 1; Clause 110; Schedule 2; Clause 111; Schedule 3; Clauses 112 to 116; Schedule 4; Clauses 117 to 120; new Clauses; new Schedules; remaining proceedings on the Bill.

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Mr Simon Clarke

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.

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Mr Simon Clarke

2

Clause 1, page 2, line 3, 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)."

**Member's explanatory statement**

This amendment updates the second condition in clause 1 so that it catches "excess teacher service" (a definition of which is inserted into clause 98 by a separate amendment) and clarifies that service meets that condition even if it falls within more than one of paragraphs (a) to (c).

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Mr Simon Clarke

3

Clause 1, 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."

**Member's explanatory statement**

This amendment amends the definition of "disqualifying gap in service" so that it includes a period during which the person was transferred to a private sector employer under local government contracting out arrangements.

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Mr Simon Clarke

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Clause 1, page 3, line 3, after "scheme" insert "or excess teacher service"

**Member's explanatory statement**

This amendment is consequential on the amendment of the second condition in this clause made by separate government amendment.

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Mr Simon Clarke

5

Clause 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).”

**Member’s explanatory statement**

This amendment updates the definition of “the relevant Chapter 1 legacy scheme” for a case in which a teacher has excess teacher service. A definition of “excess teacher service” is inserted into clause 98 by a separate government amendment.

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Mr Simon Clarke

6

Clause 22, 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;”

**Member’s explanatory statement**

This amendment confers power to enable provision to be made about the benefits payable, where a member dies, in respect of surviving children who do not live in the same household as a surviving adult.

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Mr Simon Clarke

7

Clause 22, 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;”

**Member's explanatory statement**

This amendment enables provision to be made where a teacher has excess teacher service or has service which takes place in the remedy period, is pensionable under a Chapter 1 new scheme, but would not have been pensionable under a Chapter 1 legacy scheme, or under a local government new scheme, if the unlawful discrimination rectified by the Bill had not taken place.

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Mr Simon Clarke

8

Clause 22, page 19, line 20, at end insert—

“(dd) provision about cases in which a person has a partnership pension account;”

**Member's explanatory statement**

This amendment confers power to enable further provision to be made about cases in which a person has a partnership pension account.

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Mr Simon Clarke

9

Clause 22, page 19, line 20, at end insert—

“(de) provision about cases in which a person is made redundant;”

**Member's explanatory statement**

This amendment confers power to enable further provision to be made about cases in which a person is made redundant.

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Mr Simon Clarke

10

Clause 22, 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;”

**Member's explanatory statement**

This amendment contains a definition required for the amendment of this clause that confers power to enable provision to be made about the benefits payable, where a member dies, in respect of surviving children who do not live in the same household as a surviving adult.

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Mr Simon Clarke

11

Clause 22, 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;”

**Member’s explanatory statement**

This amendment contains a definition required for the amendment of this clause that confers power to enable provision to be made about the benefits payable, where a member dies, in respect of surviving children who do not live in the same household as a surviving adult.

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Mr Simon Clarke

12

Clause 22, 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);”

**Member’s explanatory statement**

This amendment ensures that the power to make provision about cases in which a person is made redundant covers any case in which a member of the armed forces becomes entitled to a redundancy payment under the instruments listed.

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Mr Simon Clarke

13

Clause 27, page 24, line 20, leave out “given by the Treasury”

**Member’s explanatory statement**

This amendment ensures that the consultation requirement in subsection (4) of this clause applies to directions given under the clause by the Department of Finance in Northern Ireland.

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Mr Simon Clarke

14

Clause 27, page 24, line 22, leave out “the Treasury has consulted” and insert “consultation with”

**Member's explanatory statement**

This amendment ensures that the consultation requirement in subsection (4) of this clause applies to directions given under the clause by the Department of Finance in Northern Ireland.

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Mr Simon Clarke

15

Clause 38, page 30, leave out lines 28 to 33

**Member's explanatory statement**

This amendment moves a definition from this clause to clause 98 so that it applies for the purposes of the whole Part.

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Mr Simon Clarke

16

Clause 38, page 30, line 44, leave out from beginning to end of line 11 on page 31

**Member's explanatory statement**

This amendment moves some definitions from this clause to clause 98 so that they apply for the purposes of the whole Part.

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Mr Simon Clarke

17

Clause 38, page 31, line 48, leave out "Part" and insert "Chapter"

**Member's explanatory statement**

This amendment confines the scope of the interpretation provision in subsection (2) of clause 38 so that it applies only for the purposes of the Chapter.

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Mr Simon Clarke

18

Clause 39, page 32, line 12, leave out "all of"

**Member's explanatory statement**

This amendment clarifies that service meets the second condition in clause 39 even if it falls within more than one of the paragraphs contained in the condition.

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Mr Simon Clarke

19

Clause 39, 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).”

**Member’s explanatory statement**

This amendment clarifies that service meets the second condition in clause 39 even if it falls within more than one of the paragraphs contained in the condition.

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Mr Simon Clarke

20

Clause 62, page 50, line 47, leave out “given by the Treasury”

**Member’s explanatory statement**

This amendment ensures that the consultation requirement in subsection (4) of this clause applies to directions given under the clause by the Department of Finance in Northern Ireland.

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Mr Simon Clarke

21

Clause 62, page 51, line 1, leave out “the Treasury has consulted” and insert “consultation with”

**Member’s explanatory statement**

This amendment ensures that the consultation requirement in subsection (4) of this clause applies to directions given under the clause by the Department of Finance in Northern Ireland.

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Mr Simon Clarke

22

Clause 75, page 55, leave out lines 34 to 39

**Member’s explanatory statement**

This amendment moves a definition from this clause to clause 98 so that it applies for the purposes of the whole Part.

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Mr Simon Clarke 23

Page 57, line 3, leave out Clause 77

**Member's explanatory statement**

Clause 77 is replaced by NC3.

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Mr Simon Clarke 24

Page 57, line 33, leave out Clause 78

**Member's explanatory statement**

Clause 78 is replaced by NC4.

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Mr Simon Clarke 25

Clause 84, 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).”

**Member's explanatory statement**

This amendment clarifies that the status of local government new schemes as career average revalued earnings schemes is unaffected by provision made under NC4.

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Mr Simon Clarke 26

Clause 84, 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).”



**Member's explanatory statement**

This amendment clarifies that the status of local government new schemes as career average revalued earnings schemes is unaffected by provision made under NC4.

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Mr Simon Clarke

1

Page 66, line 37, leave out Clause 86

**Member's explanatory statement**

Clause 86 is replaced by NC1 and NC2.

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Mr Simon Clarke

27

Clause 90, 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).”

**Member's explanatory statement**

This amendment ensures that the Treasury's power to make a compensation scheme under clause 91 covers compensation payable in respect of local government schemes.

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Mr Simon Clarke

28

Clause 90, 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.”

**Member's explanatory statement**

This amendment ensures that the Treasury's power to make a compensation scheme under clause 90 covers compensation payable in respect of local government schemes.

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Mr Simon Clarke

29

Clause 90, 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.”

**Member's explanatory statement**

This amendment ensures that the Treasury's power to make a compensation scheme under clause 90 covers compensation payable in respect of local government schemes.

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Mr Simon Clarke

30

Clause 91, page 73, line 11, at end insert ", or

- (c) a compensatable loss for the purposes of section (*Power to pay compensation*) (power to pay compensation under Chapter 3)."

**Member's explanatory statement**

This amendment ensures that the power of the Department of Finance in Northern Ireland to make a compensation scheme under clause 92 covers compensation payable in respect of local government schemes.

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Mr Simon Clarke

31

Clause 91, 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."

**Member's explanatory statement**

This amendment ensures that the power of the Department of Finance in Northern Ireland to make a compensation scheme under clause 91 covers compensation payable in respect of local government schemes.

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Mr Simon Clarke

32

Clause 91, 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."

**Member's explanatory statement**

This amendment ensures that the power of the Department of Finance in Northern Ireland to make a compensation scheme under clause 91 covers compensation payable in respect of local government schemes.

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Mr Simon Clarke 33

Clause 98, 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);”

**Member’s explanatory statement**

This amendment defines “connected” for the purposes of the whole of Part 1 of the Bill.

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Mr Simon Clarke 34

Clause 98, page 77, line 48, at end insert—

““excess teacher service” has the meaning given by subsection (2)”

**Member’s explanatory statement**

This amendment refers to the definition of “excess teacher service” inserted into subsection (2) of this clause by separate government amendment.

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Mr Simon Clarke 35

Clause 98, 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;”

**Member’s explanatory statement**

This amendment moves some definitions from clause 38 to this clause so that they apply for the purposes of the whole Part.

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Mr Simon Clarke

36

Clause 98, 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);”

**Member’s explanatory statement**

This amendment defines “local government contracting-out transfer”. This is an expression used in government amendments of clause 1 and NC3.

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Mr Simon Clarke

37

Clause 98, 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);”

**Member’s explanatory statement**

This amendment defines “teacher” for the purposes of Part 1. This is required for other government amendments.

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Mr Simon Clarke

38

Clause 98, 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.”

**Member’s explanatory statement**

This amendment defines “excess teacher service”. This is service as a teacher which is in excess of the maximum that could be accrued under the teachers’ Chapter 1 legacy scheme, but where the service is (or, in certain circumstances would have been) pensionable under a local government new scheme.

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Mr Simon Clarke

39

Clause 104, page 83, line 7, leave out “Plc” and insert “Limited”

**Member’s explanatory statement**

This is one of a number of amendments reflecting the conversion of Bradford & Bingley from a public company to a private company.

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Mr Simon Clarke

40

Clause 104, page 83, line 11, leave out first “Plc” and insert “Limited”

**Member’s explanatory statement**

This is one of a number of amendments reflecting the conversion of Bradford & Bingley from a public company to a private company.

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Mr Simon Clarke

41

Clause 106, page 86, line 6, leave out “Plc” and insert “Limited”

**Member’s explanatory statement**

This is one of a number of amendments reflecting the conversion of Bradford & Bingley from a public company to a private company.

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Mr Simon Clarke 42

Clause 106, page 86, line 14, leave out “Plc” and insert “Limited”

**Member’s explanatory statement**

This is one of a number of amendments reflecting the conversion of Bradford & Bingley from a public company to a private company.

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Mr Simon Clarke 48

Schedule 1, page 105, line 35, leave out “(3)” and insert “(2)”

**Member’s explanatory statement**

This amendment corrects an error in the cross-reference in paragraph 44(6) of Schedule 1.

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Mr Simon Clarke 43

Clause 117, 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”

**Member’s explanatory statement**

This amendment disapplies the subsections (1) to (7) of clause 117 in relation to scheme regulations for a local government scheme.

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Mr Simon Clarke 44

Clause 119, 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;”

**Member’s explanatory statement**

This amendment ensures that Chapter 3 of Part 1 (local government) comes into force, at the latest, on 1 October 2023, and confers power on the Treasury (or, in Northern Ireland, the Department of Finance) to bring the Chapter into force earlier.

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Mr Simon Clarke

45

Clause 119, 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).”

**Member’s explanatory statement**

This amendment is consequential on Amendment 44.

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Mr Simon Clarke

46

Clause 119, page 94, line 46, after “(2)(b)” insert “, (2)(da)”

**Member’s explanatory statement**

This amendment is consequential on Amendment 44.

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Mr Simon Clarke

47

Clause 120, page 95, line 4, leave out subsection (2)

**Member’s explanatory statement**

This amendment removes the privilege amendment inserted by the Lords.

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Mr Simon Clarke

NC1

To move the following Clause—

**“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”.

**Member’s explanatory statement**

This new clause reproduces, with technical changes, the effect of subsections (2), (3), (6) and (7) of clause 86 as it currently stands in the Bill. It also adds provision for the changes to the operation of the cost cap regime that are to be introduced for the 2020 and subsequent valuations - in particular the economic check and the reformed scheme only design.

Mr Simon Clarke

NC2

To move the following 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."

**Member's explanatory statement**

This new clause reproduces, with technical changes, the effect of subsections (4), (8) and (9) of clause 86 as it currently stands in the Bill.

Mr Simon Clarke

NC3

To move the following 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 person's 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 the person’s normal pension age under the pension scheme in relation to which the third condition is met.

- (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.”

#### **Member’s explanatory statement**

This new clause replaces clause 77 and refines the “remediable service” definition. Amongst other things, it ensures that the Chapter 3 remedy is available for persons in pensionable service under a legacy scheme on or before 31 March 2012 and those transferred to the private sector under certain arrangements.

Mr Simon Clarke

NC4

To move the following 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."

**Member's explanatory statement**

This amendment replaces clause 78 with a new clause which enables a local government new scheme pay final salary benefits in a wider range of cases. It also clarifies that the scheme may require a person to transfer in or aggregate their service in order to receive final salary benefits.

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Mr Simon Clarke

NC5

To move the following 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*)(5) does not affect the continued operation of any scheme regulations made before the coming into force of that provision."

**Member's explanatory statement**

This amendment inserts a new clause that contains transitional provision in relation to NC4.

Mr Simon Clarke

NC6

To move the following 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."

**Member's explanatory statement**

This new clause enables local government schemes to adjust pension credits and debits (which arise in divorce proceedings or on termination of a civil partnership) to reflect the remedy under this Chapter. It is similar to the corresponding provision in Chapter 1 (which is at clause 19).

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Mr Simon Clarke

NC7

To move the following 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).”

**Member’s explanatory statement**

This new clause is about special cases and in particular enables provision to be made about excess teacher service and cases in which a person receives benefits under an injury and compensation scheme. It is similar to the corresponding provision in Chapter 1 (which is in clause 22).



Mr Simon Clarke

NC8

To move the following 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.”

**Member’s explanatory statement**

This new clause enables local government schemes to pay compensation. It is similar to the corresponding provision in Chapter 1 (which is at clause 23).

Mr Simon Clarke

NC9

To move the following 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*).”

**Member’s explanatory statement**

This new clause enables local government schemes to pay indirect compensation. It is similar to the corresponding provision in Chapter 1 (which is at clause 24).

Mr Simon Clarke

NC10

To move the following 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.”

**Member’s explanatory statement**

This new clause confers power on local government schemes to make provision about interest and process in connection with amounts owed to persons as a result of the remedy in Chapter 3. It is similar to the corresponding provision in Chapter 1 (which is at clause 26).

Mr Simon Clarke

NC11

To move the following 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 of a scheme manager under section (*Power to pay compensation*)(1) (power to pay compensation),
  - (c) 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;
  - (d) the power to make scheme regulations by virtue of section (*Indirect compensation*)(1) (indirect compensation) and any powers exercisable by virtue of such regulations;
  - (e) 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).”

**Member's explanatory statement**

This new clause requires that some of the powers relating to local government schemes that are conferred in other new clauses be exercised in accordance with Treasury directions. It is similar to the corresponding provision in Chapter 1 (which is at clause 27).

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Mr Simon Clarke

NC12

To move the following 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)."

**Member's explanatory statement**

This amendment inserts a clause about the interpretation of the new provisions inserted into Chapter 3 of Part 1 by other Government amendments.

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Mr Simon Clarke

NC13

To move the following 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)."

**Member's explanatory statement**

This amendment concerns pension schemes for members of the Senedd that are established after 1 April 2015. It removes such schemes from the cost control mechanism contained in the Public Service Pensions Act 2013. It also disapplies the Treasury veto (contained in section 30(3) of that Act) over establishing or varying such schemes.

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Tulip Siddiq

NC14

★ To move the following Clause—

**"Compensation of losses incurred by closure of legacy schemes**

- (1) The Chancellor of the Exchequer must review how a loss incurred by a member with remediable service who is transferred to the new scheme under section 80 and—
  - (a) reaches the required number of years of pensionable service to retire with full benefits under the legacy scheme, and
  - (b) is unable to access the full value of those benefits because they must continue to work to retire with full benefits under the new scheme
 could be compensated.
- (2) The Chancellor of the Exchequer must prepare and publish a report on this review within two months of the passage of this Act and must lay a copy of the report before Parliament."

**Member's explanatory statement**

This new clause would require the Government to review how losses arising from the "pension trap" could be compensated, and to report on the review within two months of the passage of the Act.

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## Order of the House

**[5 January 2022]**

That the following provisions shall apply to the Public Service Pensions and Judicial Offices Bill [Lords]:

**Committal**

1. The Bill shall be committed to a Public Bill Committee.

**Proceedings in Public Bill Committee**

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 1 February 2022.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

**Proceedings on Consideration and on Third Reading**

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

**Other proceedings**

7. Any other proceedings on the Bill may be programmed.
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