PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

PUBLIC SERVICE PENSIONS BILL

Eighth Sitting

Tuesday 20 November 2012

(Afternoon)

CONTENTS

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Saturday 24 November 2012

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: Mr Joe Benton, † Annette Brooke

Abrahams, Debbie *(Oldham East and Saddleworth)* (Lab)
† Ashworth, Jonathan *(Leicester South)* (Lab)
† Burt, Lorely *(Solihull)* (LD)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Evans, Graham *(Weaver Vale)* (Con)
† Freer, Mike *(Finchley and Golders Green)* (Con)
† Fuller, Richard *(Bedford)* (Con)
† Gibb, Mr Nick *(Bognor Regis and Littlehampton)* (Con)
† Gilmore, Sheila *(Edinburgh East)* (Lab)
† Hands, Greg *(Chelsea and Fulham)* (Con)
† Jamieson, Cathy *(Kilmarnock and Loudoun)* (Lab/Co-op)
† Javid, Sajid *(Economic Secretary to the Treasury)*
† Jones, Mr Marcus *(Nuneaton)* (Con)
† Leadsom, Andrea *(South Northamptonshire)* (Con)
† Leslie, Chris *(Nottingham East)* (Lab/Co-op)
† McGovern, Alison *(Wirral South)* (Lab)
† McKenzie, Mr Iain *(Inverclyde)* (Lab)
Paisley, Ian *(North Antrim)* (DUP)
† Williams, Stephen *(Bristol West)* (LD)

Kate Emms, Neil Caulfield, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 20 November 2012

(Afternoon)

[Annette Brooke *in the Chair*]

Public Service Pensions Bill

Clause 20

Consultation and report

Amendment moved (this day): 66, in clause 20, page 11, line 11, leave out 'significant'.—*(Chris Leslie.)*

2 pm

The Chair: I remind the Committee that with this we are discussing the following:

Amendment 67, in clause 20, page 11, line 35, at end insert

'or in the case of the Local Government Pension Scheme the period of 26 years beginning with 1 April 2014'.

Amendment 68, in clause 20, page 11, line 40, at end insert—

'(d) the scheme's definition of pensionable earnings;

(e) ill-health benefits;

(f) early retirement rights.'.

Amendment 69, in clause 20, page 11, line 41, leave out subsection (6).

Chris Leslie (Nottingham East) (Lab/Co-op): Good afternoon, Mrs Brooke. What a pleasure it is to have you in the Chair. I do not wish to belittle in any way Mr Benton's contribution, but it somehow feels as though we are on the home straight. We obviously have some significant proceedings still to be conducted, but we are in the final week—according to the programme order at least—of the Committee stage. I can feel the enthusiasm in the room; it is quite palpable.

I was mid comment on amendment 68, which, as with the rest of this group of amendments, relates to clause 20 and consultation and reporting when a change may be made that affects the accrued benefits of members of public service pension schemes. Amendment 68 seeks to add to subsection(5) some additional elements that ought to be protected, which would then require the responsible authority to consult those affected and to use, as the Minister described it, this enhanced consultation procedure. In other words, there should be meaningful and genuine consultation, rather than just the tick-box consultation that people have sadly grown used to in the past few years.

It is important that we focus on Ministers' decisions to protect certain elements of pension schemes but exclude others. The Minister said that if there were changes that alter the extent to which the scheme is a career average revalued earnings scheme or if members' contribution rates or benefit accrual rates are affected, those are deemed as protected and consultation must be meaningful with a view to reaching agreement—so far, so good. However, other important factors of pension schemes, including the scheme definition of pensionable earnings, ill-health benefits, and early retirement rights, are excluded. Those elements are important, and it is disappointing that they are not subject to the protections in clause 20.

As the Bill stands, the responsible authority could make adverse and retrospective changes, and any form of non-retrospective change to the definition of pensionable earnings, ill-health benefits, or early retirement rights would require the most superficial of consultation exercises only. I will give some examples. If scheme rules were changed to reduce the ill-health benefits that would apply, if somebody were to fall ill, to ensure that their income is protected in retirement, particularly if it is early retirement, that would not be subject to proper consultation. If changes were made to the age at which early retirement could be taken, the same is the case.

We touched on the issue of the definition of pensionable earnings earlier, and if that is changed, benefits and accrued benefits could be reduced. It is interesting that the Bill mentions protecting "benefit accrual rates" under the scheme, but it does not say that any issues that affect benefit accruals more generally would be subject to the enhanced consultation arrangement. The Opposition have some serious concerns about the significant impact that an alteration to the definition of pensionable earnings could have on benefits being accrued. Simply referring to the "rate" covers quite a narrow area of potential benefits. I am quite worried that if pensionable earnings definitions are changed, benefits will be reduced. It would not be treated as a protected element and it could affect the overall level of benefits that are available. We therefore think that for the avoidance of doubt, as well as ensuring there is proper scope for those elements of constituent parts of pension schemes that should be part of this proper consultation process, it would be far better to add on those elements as we have set out in amendment 68.

Amendment 69 brings us to line 41 and this rather disappointing subsection which provides that any changes that flow from the employer cost cap are not afforded the protections under the consultation arrangements envisaged in clause 20. Subsection (6) states:

"references to a change to the protected elements do not include a change appearing to the responsible authority to be required by or consequential upon"

that employer cost cap. The wording is particularly interesting but I will come to that in a moment. We have already had a debate on clause 11, where the Government are allowing member contributions to be increased or benefits reduced, including retrospectively, so the scheme can stay within the specified margins of the employer cost cap. We do not have a problem with the operation of the employer cost cap, but it is important that scheme members understand how it works because it all depends on where it is set and at what level it kicks in. There could be significant changes to their accrued benefits—their deferred wages—if there are changes which seem arbitrary and could cut across their earnings in retirement.

For there not to be a requirement, certainly in clause 11, for the Treasury to consult when setting directions for that cost cap is bad enough; but then for the clause 20 provisions deliberately to exclude elements that might flow from the cost cap, as it affects the scheme contribution rates or benefit accrual rates, seems to underline the expectation that many in the public sector will have that the employer cost cap is not simply about scheme

viability or balance, but is a way of finding opportunities to grind down and erode the benefits to which they might be entitled. Without any form of consultation on changes from this employer cost cap arrangement and without any form of proper parliamentary scrutiny if benefits are to be reduced or contributions increased as a result of the cap, the provision moves too far out of the realms of what should be decent relationships between the employee and employer sides, as part of the mature conversation we should be encouraging between stakeholders involved in making sure that these new schemes are viable.

Clause 20 does not require member consent to make changes to protected elements. It merely requires consultation with a view to reaching agreement and the laying of a report before Parliament so that it can be properly scrutinised. We see no good reason for the Government to exclude changes made under the employer cost cap from what are still pretty modest protections under clause 20. Ministers have tried to characterise this as some sort of lock when it is simply a requirement to consult, albeit with a view to reaching agreement. But that does not force an agreement to be made. It simply provides this extra level of parliamentary scrutiny. A Government majority can push things through, as we have seen time and again. It is not a protection that gives any guarantees to those on the employee side.

It is a shame to have this exclusion for changes flowing from the employer cost cap. That is the point I wanted to come to in respect of the wording of subsection (6). It does not just say, "Thou shalt not have this level of consultation if things appear"

"to the responsible authority to be required by…(employer cost cap)."

It says that if anything looks as if it is "consequential" to the employer cost cap, that also is excluded. So I am slightly concerned that issues relating to benefit accrual rates, member contribution rates and even the extent to which a scheme is a career average revalued earnings scheme, might themselves be affected by questions arising from that employer cost cap arrangement.

In other words, the supposedly protected right to be consulted on those matters might be eroded if somebody in the "responsible authority" says, "Well, actually these are indirectly impinged upon by the operation of clause 11 on the employer cost cap, and therefore out goes the requirement to consult." Obviously there would be a right for individuals involved in the scheme to contest that, but it would be a very messy judicial review experience and not very desirable at all.

It would be far better if we could ensure that the cap was set in a way that at least gave people the chance to be consulted and to have their say on how it will affect them. That would also be a healthy process. Some scrutiny of operation of the employer cost cap arrangement would not go amiss. Often, scrutiny allows officials and others to reflect—once, twice, a few times—and ask, "What exactly are the downstream consequences of these things?" A consultative requirement is not just for the benefit of the employees affected; it is also part and parcel of ensuring that proper attention and thought goes into the design of schemes in the future.

There is also a concern about the way in which the employer cost cap can be enacted by Ministers. That was alluded to by my hon. Friend the Member for Kilmarnock and Loudoun in her comments on clause 11. Given the wide discretion the Treasury has granted itself in the drafting of clause 11 (3) in particular, there is nothing to ensure that the cap is set in a moderate way. The Treasury could set the cap in such a low way that it is very easily exceeded, triggering increases in employee contributions and decreases in employee benefits; and of course, all that would happen without any meaningful consultation whatsoever.

There is a flaw in the way the Bill has been designed. As I say, the employer cost cap arrangement may well indeed be the right and proper thing to produce, but it just seems so unnecessarily miserable of Ministers to refuse people at least the right to be consulted about that arrangement, especially if they are feeling adverse effects, not least in the retrospective context of their deferred wages.

I am sure the Minister will understand where we are coming from in trying to provide at least some balance in the protections for members of public service schemes. I commend the amendment to the Committee.

Mr Iain McKenzie (Inverclyde) (Lab): Twenty-five years would seem a long time in anybody's reckoning, but as far as pensions are concerned it is actually quite a short time. I know that from experience of looking at a pension many years off, and then seeing it coming starkly closer with every year of employment. So 25 years is a long time, but pensions are long-term plans. Pensions should be looked upon not as a gift from employers but as deferred pay, remembering that employees have contributed for many years with the expectation and hope that as they near retirement, they can look forward to the expected level of pension.

That is why I believe that any reforms should last a generation. They should give comfort to those entering employment and establishing a pension that there will be no changes for the next 25-plus years. The clause does not deliver on the required commitment or offer any comfort in that respect. We are all planning for retirement, and at the end of our working life we expect to receive the level of pension that we have accrued over the years.

2.15 pm

If changes are made late in a person's employment life, they will have little time to adjust to a new level of pension if anything untoward happens. Most recently, women who were born in the early '50s were told virtually at the last minute that their pensions would not be what they had assumed, and they had little time to make the necessary adjustments. I am sure that, like me, many hon. Members received representations from their constituents who fell into that bracket, who felt that the measure was unfair and that it would put them in difficulties in the years ahead.

The use of the term "significant adverse effects" is particularly worrying, because it offers an opportunity to avoid consultation rather than engaging in it. Significant adverse effects for one person might not be significant adverse effects for another. Those at the top end of the salary range probably would not see as much of a significant adverse change as those at the bottom. Pensions in the public sector encompass an average of between £5,000 and £7,000 a year, and the majority of employees

earn a salary of £20,000 or less. The measure will especially hit those who are on lower salaries and those who work part time. Again, that would mostly affect women, who tend to take up part-time occupations in the public sector.

Pensions are all about trust between employee and employer. An employee has to be able to trust in the link between what they are paying in and what they can expect. They have to be able to trust that their employer will stand by them and that they will leave employment with their expected pension. Conservative Members repeatedly cite the private sector as an example. Yes, it is an example, but it is an example of how to smash and shatter employees' trust and adjust pensions at will, forcing many employees to leave their employment for fear of their pension being further reduced. I have some experience of that, because my previous employer used such a tactic to great effect to reduce its headcount, adjust its work force and make a massive saving over the years.

We do not want to replicate that situation in the public sector. It is essential that employees have confidence in their pension and confidence that if any adjustments are to be made, consultation will take place. That consultation must take place over a period long enough to allow them to make adjustments, so that they do not retire on poverty pensions that put them in real trouble later in life, where the Government will have to pick up the bill at the other end and supplement low pensions.

Sheila Gilmore (Edinburgh East) (Lab): I apologise for missing the start of the sitting. In evidence sessions and earlier debates, one issue that came up several times was the need to reassure people that although the Bill will fix a normal pension age, which will be lower for only a small number of specified groups, they will not have to retire at that age. People need reassurance that although that is the normal pension age, they should not get too upset, worried or anxious if they find it difficult to continue working because of personal or health circumstances, because they would be able to retire at an earlier age, albeit in many circumstances with a reduced pension. That is an important safeguard for many people. There are many examples of people who might find their type of work difficult on health grounds and have a lot of scepticism that they could reasonably do another job.

Although nobody wants anyone to have to retire early, we have to accept that many people, despite the longevity issues that we are struggling with throughout the Bill, are not that fortunate and will want to leave work early. The relevance to the clause is that arrangements for early retirement on health grounds are not protected elements requiring consultation. Amendment 68 aimed to insert additional circumstances to be protected, one being early retirement and another ill health. It is important that we consider making such a change.

We must remember that there is nothing that says that a future Government or scheme cannot make the changes. It simply says that a scheme must consult before making the changes, and ensure there is a level of consensus. Groups that might be particularly affected include nurses and carers, who find lifting and other tasks beyond them, as well as more obvious categories such as police and fire officers, who have a lower retirement age in the Bill but might still be unfit in some circumstances for the job and unable to reach the level of physical fitness we would hope for.

If it is possible for a scheme in future to alter the arrangements for early or ill health retirement and make it more difficult for people to take such retirement, the answer given to concerns expressed earlier about a fixed retirement age begins to disappear. People could find that not only is this not the fixed normal pension age for the calculation of the pension, but the other things that they might have hoped would help them if they needed to retire early could also be changed, and without consultation. The additional provisions suggested in amendment 68 would close that anxiety and make people feel more confident that the fact that a normal retirement age is fixed will not make it difficult for them.

Mr Nick Gibb (Bognor Regis and Littlehampton) (Con): I listened carefully to the hon. Lady's well made contribution to the debate. Does she not accept that clause 20 constitutes an enhanced consultation and report process? That is what is referred to in paragraph 132 of the explanatory notes to the Bill. This measure is meant to implement the 25-year protection of pensions.

Amendment 68 would add three additional protected elements. In reality, would the hon. Lady not accept that no Government could change any element of a public sector pension scheme without all the unions, other vested interests and those who look after the interests of public sector employees knowing about that change and voluntarily putting forward their views to Government?

Sheila Gilmore: The hon. Gentleman almost suggests that there is no need for the clause at all, but if that were the case, why put in the enhanced consultation? Clearly, the Government's view is that, given the nature of the changes and the level of commitment given to obtain that agreement, the settlement will endure.

We all know from our postbags that a lot of public sector workers feel that the ground has been cut from under their feet. They feel that what they had been paying towards and what they had expected when they started their jobs has been taken away. People in that situation have been, in some cases, pulled reluctantly to reach the agreements, but one of the cornerstones that has been stated over and over again—the Chief Secretary to the Treasury has been particularly strong on this, and said this when speaking on this subject—is that there will be a guarantee of permanency. As part of that, this provision, for consultation, is there in clause 20.

The arguments that exist for protected factors, which are already in the clause as it stands, apply to further issues for the reasons I have given. In a situation that has not been easy for anybody involved, it is important that we give people that confirmation now.

Consultation, and consultation rights, are important. Although sometimes people will find out about things at some point and raise an issue, if a clear consultation process is not built in from the start, people find that they start at the back end of that process. There should be a clear obligation to consult, making sure that the issues are brought to the attention of the people who need to know.

In an earlier intervention, I raised a question on the use of the word "significant". It cannot have precise connotations, but if we are not careful, we will end up in a situation where there will be a lot of dispute. One person's notion of what is significant may be considered just a small change by others, or it may be that it affects only a few people. That is the other question about significant: is it significant in relation to the nature of the change, or is it significant in relation to the number of people who may be affected? If only a small group is affected by a change, they may be affected in a way that matters a great deal to them but it may not be considered to be a significant change in the grand schemes of things where there are thousands of members.

Mr McKenzie: My hon. Friend makes many good points. Does she agree that the attraction for many to stay in public service employment is not that they will be on inordinate amounts of money each month, but that they will have a reasoned, decent pension waiting for them at the end of their employment?

Sheila Gilmore: There is absolutely no doubt, as my hon. Friend says, that that was the tradition. Nowadays, it is attacked on the grounds that the differential that existed in some respects between public and private sector salaries is not quite the same as it was. Nevertheless, one of the reasons for that is that many of the lower-level public service jobs have been outsourced and are not included in that count any more, so like-for-like comparisons have to be done with care.

People are prepared to do a lot of jobs in the public sector that are neither glamorous nor high-paid. I give the example of the remaining people who work as home helps in my authority—they are now called carers. I say "remaining" because a lot of them no longer work for the local authority; they work for private companies on an outsourced basis. However, those who still do are doing a hugely important, intrinsically hard job for not a very high wage. Pensions are one of the things that they have got, and women in particular fought very hard for pensions at a time when they often did not even get included in schemes because they were not working full-time hours. We fought very hard to get pensions for those sorts of jobs, and we certainly do not want to see them taken away or diminished even more than they have been.

2.30 pm

I do not buy the argument that people in the public sector should be content because they still have something that people working in the private sector do not have. I know this is slightly off the point, but the more I look into some of the issues about private sector pensions—the way they have been sold and mis-sold, and the kind of provision that people have—the more appalling the situation seems. The result is, of course, that in the end the state has to pick up the tab a lot of the time anyway, because the private sector has not made provision. That is a whole other story, and one that no doubt we will be coming back to in due course.

Graham Evans (Weaver Vale) (Con): I agree with a lot of what the hon. Lady has said about private sector pensions. Does she not welcome the Government's decision to bring career average pensions into the public sector, therefore putting in something that, relatively speaking, helps lower-paid workers, who historically have had a worse deal with their pensions than those at the very top? These Government reforms mean that those at the top do not quite get the pensions that they have had historically, because of the career average that the Government have introduced.

Sheila Gilmore: The career average has some clear advantages for some groups, and that is why a lot of trade unions and employee groups have come to accept it, even though their initial responses were anxious as they were thinking that everything would be changed. One constituent of mine, who had apparently done quite a bit of work in his union on pensions, said that whether career average is good or bad basically depends on revaluation and on accrual rates; so it is dependent on how well those are structured. Certainly, that reform will be of advantage to a lot of lower-paid workers in pension schemes. I do not think we are saying that we would want to throw that away again.

That is why it is so important that, as is acknowledged in the clause, elements such as accrual rates are protected. My point was that we should go beyond simply protecting the elements that are listed in subsection (5), and look at other issues that could affect people quite substantially, to make sure that we can genuinely move forward, and to give people the confidence that this settlement will last, and that, should it ever be reopened, it would be reopened with the fullest possible consultation and involvement.

As I have said before, we cannot predict what will happen in the next 25 years. There may be further significant advances in longevity, for example, which may be a major driver for wanting change. However, it is also the case that we have not resolved a lot of the health problems that people suffer, both after they have passed normal retirement age and before that. In many ways, we are building up a quite substantial problem with regard to people who simply are not as fit as others when they reach that age, and so need protection. I urge the Committee to consider those points very carefully.

The Economic Secretary to the Treasury (Sajid Javid): I welcome you to the Chair, Mrs Brooke. I welcome the case that the hon. Member for Nottingham East has made, and I shall respond to it now in some detail, as he raised some important points. I also thank the hon. Members for Inverclyde and for Edinburgh East for their contributions, and also my hon. Friends the Members for Bognor Regis and Littlehampton and for Weaver Vale for their excellent interventions, in which they made some important points.

In a moment I will come to the individual proposals set out in the amendments. However, I will first take a moment to respond to the general thrust of the arguments advanced. The provisions in the clause deliver on the Government's belief that the new public service pensions represent a settlement which should last for 25 years, perhaps even longer. It is important to the Government that their commitment in this regard should be embedded in the primary legislation in order to give reassurance to members of these schemes. Some will argue that it is inappropriate that such a commitment should be in the Bill as it represents an attempt to bind

[Sajid Javid]

the hands of future Governments and Parliaments. However, we are determined to see it remain as a sign of our commitment.

The guarantee is as strong as we could make it without improperly binding future Parliaments. There are, however, practical implications to be taken into account. The clause should allow for commonly held expectations for these pensions, but it should not do so at the expense of a practical delivery of these schemes in the real world. As has been mentioned, there must come a point past which we entrust the future of public service pensions to future Administrations. The clause strikes the right balance.

Amendment 66 seeks to remove the word "significant" from the clause. This would make every regulation that implements a retrospective, adverse change to member benefits subject to the additional protections in clause 20, regardless of how minor that change might be. We have discussed the issue of retrospectivity at length so I will try to avoid going over too much old ground. Like the legislation it replaces, the Bill contains a power to make retrospective changes. What I will say again is that we believe that almost all retrospective changes will either be minor or technical in nature, or beneficial to members. It will be exceptional for retrospective changes to have adverse effects on scheme members. Where they do, we believe that those effects would generally be very minor, that is to say, not significant.

Such changes do not have a real likelihood of creating genuine or substantial unfairness. Therefore, the Government do not believe it is appropriate that all such retrospective changes are automatically debated, let alone subject to the enhanced consultation requirements and parliamentary report processes set out under this clause. Such an arrangement would be impractical. I am afraid that a similar argument applies to amendment 68. The Government have given considerable thought to the elements that could be included within this clause and we consider that those currently listed are the right ones.

Combined with a functioning cost cap, where a significant reduction in the cost of the scheme would see beneficial effects for members, the protection of the listed elements should give scheme members the assurance that they rightly desire and deserve. The inclusion of further elements, as suggested in the amendment, would, I am afraid, make it much more difficult for the scheme to operate in practice. Each element included under this list would represent a restriction on the ability of schemes to respond flexibly and appropriately to changes in circumstances. I therefore urge hon. Members not to press this amendment to a Division.

Amendment 69 seeks to remove subsection (6) from the clause. This subsection excludes any changes made to the schemes as a result of the employer cost cap mechanisms, from the protections set out in earlier subsections. Let me be clear. This is not intended as a back door through which changes can be smuggled without being afforded the considerations by the proper parties. Clause 11 sets out that there will be a period of consultation before any decision is made on what action should be taken to address any breach in the cost cap. The clause allows for a default adjustment to be made to the scheme if agreement cannot be reached. But subsection (6) clearly envisages that scheme regulations will provide a process for interested parties, including the responsible authority, the scheme manager, employers and members to reach agreement on how to adjust the scheme to bring its costs back into line before such a default adjustment would be made.

Agreement, of course, is even stronger than consulting "with a view to reaching agreement", as will happen under clause 20. It would seem perverse for the Government to seek to restrict the scope of the discussions that would take place in the case of a breach of the cost cap by placing certain elements under a separate, less stringent consultation regime. Given those assurances, I hope that the hon. Member for Nottingham East will agree that amendment 69 is not necessary, and I urge him to withdraw it.

Labour Members may be pleased to hear, however, that I see more benefit in amendment 67. Clause 20 is drafted to provide one aligned 25-year period for all schemes. That has significant benefits, the most important of which is that all those involved would have the same clear understanding of the effect of the clause. However, there may be merit in considering whether we could do more to reassure scheme members, particularly those of the LGPS, that the Government are committed to implementing the schemes as they have been set out. I will need to give that further thought as there will be implications for any other case where a new scheme may choose to open before April 2015 and proper consideration would need to be given to the date on which the 25-year period might start. There is a case for amendment 67 and I will certainly look at it carefully.

Given those comments, I urge the hon. Gentleman to withdraw all four amendments.

Chris Leslie: I am glad that we have had a good debate. To outsiders, it may seem like simply talking about talk and about who is going to talk to whom and at what particular point in time. However, as my hon. Friends the Members for Inverclyde and for Edinburgh East said in their contributions, the extent to which people are involved in having a voice in the design of their pension scheme and the extent to which they have any control—never mind the opportunity to have a say—over how the scheme evolves is incredibly important. It is important in ensuring that members retain their confidence in the scheme and remain as members, which is necessary for the scheme's viability and good financial health. It is therefore important to look at the consultation provisions, and we may discuss those in the clause stand part debate.

I am sorry that the Minister does not like amendment 66, but it is an important provision to have in the Bill if possible. My hon. Friend the Member for Edinburgh East said, quite rightly, that the definition of "significant" is very much in the subjective hands of the person making that judgment, and it would therefore be better to ensure that we consult on anything that has an adverse retrospective effect on scheme members. It is not a particularly onerous thing to have that requirement in the Bill. We have made the point about the concept of significant change previously, and it is unnecessary for the Government to caveat their offer on consultation. It seems unnecessarily mean to take that parsimonious approach to consultation, and they could do a lot better.

I am glad that the Minister says he will give further thought to amendment 67. It concerns what appears to be a drafting anomaly in the Bill, and it is excellent news that the Minister will take a look at the way that the timing of the closure of the old local government pension schemes and the arrival of the new schemes might align. I would be happy to withdraw amendment 67 on the grounds that he will give it further thought. It is an anomaly in the way that the Bill is drafted but I do not think it was the Government's intention to have this strange one-year window when no protections would apply to the local government pension schemes. The Minister's comments were welcome and I am glad that we were able to shine a spotlight on that anomaly.

2.45 pm

I am afraid we are not in agreement on amendments 68 and 69. Commenting on amendment 68, the hon. Member for Bognor Regis and Littlehampton said that union representatives of employees would voluntarily make their case regarding the definition of pensionable earnings, ill health and early retirement rights. That is not the point we are making about clause 20. We are simply saying that those elements are as valuable a part of the new schemes and should be subject to that consultation, which is only to ensure that it is done with a view to reaching agreement. That is the way the arrangements ought to be put forward, with those aspects regarded as protected elements.

The Minister says that will make it more difficult for those involved. That is part of the design of ensuring that we get good changes, rather than ones that are shoddy and ill thought through. It is important to have an opportunity for dialogue about the arrangements. That is why we think it is worth having those elements in the Bill. I am not convinced by the Minister's comments to exclude those aspects as set out in amendment 68.

Similarly, I do not agree that the deletion of subsection (6) would cause vast detriment or upset the design of the Bill in the way that the Minister says. He pointed out that in clause 11(6) there is a provision for procedures to be put in place to reach agreement, and that that is a stronger provision. That is a permissive provision. It says,

"scheme regulations may provide for"

those procedures to reach agreement, not that they must provide for those procedures to reach agreement. That is not a level of protection; it is very loose and permissive protection. That is why we felt it better to ensure that the employer cost cap arrangements at least came under the auspices of the consultation requirements in clause 20. If the Government are to have free rein to put in the cap, decrease member benefits or increase employee contributions, it is important to have good, meaningful consultation. That is not asking for the world; it is simply asking for good practice. I am sorry that the Minister did not feel able to move on that issue.

We have discussed the significant question and will come to that again later.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 68, in clause 20, page 11, line 40, at end insert—

'(d) the scheme's definition of pensionable earnings;

(e) ill-health benefits;

(f) early retirement rights.'.—*(Chris Leslie.)*

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 10.

Division No. 7]

AYES

Ashworth, Jonathan	Leslie, Chris
Gilmore, Sheila	
Jamieson, Cathy	McKenzie, Mr Iain

NOES

Burt, Lorely	Gibb, Mr Nick
Doyle-Price, Jackie	Hands, Greg
Evans, Graham	Javid, Sajid
Freer, Mike	Jones, Mr Marcus
Fuller, Richard	Leadsom, Andrea

Question accordingly negatived.

Amendment proposed: 69, in clause 20, page 11, line 41, leave out subsection (6).—*(Chris Leslie.)*

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 10.

Division No. 8]

AYES

Ashworth, Jonathan	Leslie, Chris
Gilmore, Sheila	
Jamieson, Cathy	McKenzie, Mr Iain

NOES

Burt, Lorely	Gibb, Mr Nick
Doyle-Price, Jackie	Hands, Greg
Evans, Graham	Javid, Sajid
Freer, Mike	Jones, Mr Marcus
Fuller, Richard	Leadsom, Andrea

Question accordingly negatived.

Question proposed, That the clause stand part of the Bill.

The Chair: I recommend that we do not have excessive repetition as we have had lengthy discussion.

Sajid Javid: I will, of course, follow your excellent recommendation, Mrs Brooke, and keep it short. I have already set out the Government's broad position on the provisions contained within clause 20, so I will simply summarise the key components of the clause. It is concerned with establishing, in law, the commitments we have made to set a high bar for changing the core elements of the new public service pension schemes.

The Government believe these reforms to be a settlement for a generation and a package that can endure for at least 25 years. The key elements of these pensions will receive two layers of protection. First, any proposed changes will undergo consultation with a view to reaching agreement with the individuals who are considered to be likely to be affected. Secondly, a report detailing the justifications for the changes must be laid before Parliament. The key exception to that is a case in which changes might be required as a result of the cost cap mechanism

[Sajid Javid]

set out in clause 11. In such a case there are separate processes for the engagement of all key parties, as set out in that clause.

I would like to correct something I said when we debated clause 11. I believe I stated that the clause did not allow for a default adjustment to be made to the scheme if agreement cannot be reached, but I meant, of course, to say that the clause does allow for a default adjustment to be made to the scheme if agreement cannot be reached.

To provide added reassurance on the issue of retrospectivity, which we have discussed at some length, the protections that I have mentioned have also been extended to any case where regulations are laid that contain retrospective provisions that appear to have significant adverse effects on members of the scheme.

Chris Leslie: I will not detain the Committee long. The drafting of clause 20 is quite an interesting innovation in legislative terms, because the idea of consultations with a view to reaching agreement is quite an untested concept in primary legislation. It inspires me for future amendments to think about ways in which we might enshrine such concepts elsewhere, but I digress.

The notion of a protected period of 25 years is interesting. The agreement is supposed to extend for that 25-year period, but it is also impossible for legislation to bind future Parliaments, as the Minister has quite rightly said. We are therefore reliant on the word of Ministers, and the word of Conservative Ministers in particular in this regard. Let us be honest, it is not likely that the Liberal Democrat component of the coalition will sustain itself for a 25-year period. Without in any way being disrespectful to the Liberal Democrats, Mrs Brooke, it is important that we get Conservative Ministers to make it clear that future Conservative Administrations would also adhere to this 25-year commitment. We can have nothing particular in legislation, only the Minister's word. Although the Chief Secretary to the Treasury said that he wants this agreement, we have not heard that from the Chancellor of the Exchequer or this Minister. That is a point that we have to extract from leading Conservative policy makers such as the Minister as the Bill proceeds.

I still think that this is an inadequate clause, as shown by the amendments that we tabled, but it is an interesting one. Many stakeholders will want to keep the Government's feet to the fire on the promises that they are making, even if they are only limited ones such as those set out in clause 20. We will not oppose the clause as it stands, but it is inadequate and we might want to return to it later.

Sajid Javid: The hon. Gentleman referred to the Government's commitment to ensure as best we can, and with the caveat he has accepted—that no Government can bind future Governments and parliamentarians—that this legislation will endure for a generation. At this point I remind him that the Chief Secretary to the Treasury, who speaks for the Government on this issue, told the House:

"I believe that we will have a deal that can endure for at least 25 years and hopefully longer."—[*Official Report*, 2 November 2012; Vol. 534, c. 929.]

He said something similar on Second Reading. The hon. Gentleman should take that as a reassurance of the Government's intentions.

Question put and agreed to.

Clause 20 accordingly ordered to stand part of the Bill.

Clause 21

Other procedure

Chris Leslie: I beg to move amendment 70, in clause 21, page 12, line 5, leave out 'significant'.

Clause 21 provides that the scheme regulations should be subject to an affirmative procedure only if they amend primary legislation—that is fair enough—or if they contain retrospective provisions which would have significant adverse effects on members of the scheme. Here we are again, as my hon. Friend the Member for Edinburgh East pointed out, talking about the frequent use of the word "significant" as a protection behind which Ministers can hide and refuse to bring forward affirmative statutory instruments before Parliament for us to consider. I do not apologise for returning to this issue, particularly on the question of retrospective changes to the pension rights of employees. It is not a surprise that many scheme members will be frightened by the possibility that benefits they are accruing or the rights they have relied upon could be amended by backdated changes.

As we have heard before in the Committee, it is the normal convention of pensions law and pension scheme rules that savings that have been made under certain scheme arrangements are sacrosanct and so too are the benefits that will accrue from them. It is therefore unusual and disappointing that we see caveats sneaking into the Bill that seem to allow Ministers to claw back sums of money retrospectively that people will think have been banked, are safe and can be relied on in their old age.

3 pm

Mr Gibb: Given the hon. Gentleman's experience in the House—I think he was first elected at the same time that I was, albeit that he had a short break from the House during that period—he will know that the negative resolution procedure involves scrutiny by the House, and if the Opposition are doing their job well, they will identify negative resolution statutory instruments that they feel need debating. Is his concern a reflection on his party's ability to scrutinise negative resolution statutory instruments?

Chris Leslie: I understand what the hon. Gentleman says. Of course it is true that the Opposition—there is nothing stopping Government Members doing this, too—need to scour the lists of all the orders that Ministers make in their quieter moments that are off-line and not brought forward for debate.

Unfortunately, it is not just in the hands of a Member to say, "Ah. I have spotted a negative statutory instrument of great significance on the list. Here it is, let's have a debate about it" because, as the hon. Gentleman knows, each individual Member does not have the power to require that that issue comes forward for debate. It is in

the hands of the Minister to listen to the requests of the Opposition, Back-Bench Members or whichever Member of Parliament prays against an order. The Minister then decides whether he will or will not allow a debate. In fact, even if several dozen MPs pray against a negative resolution, there is absolutely no guarantee that the Minister will allow a debate.

We are therefore looking for a protection that will mean that the decision will not be solely at a Minister's discretion, or on a whim if they are feeling in a bad mood on one particular day and do not want a debate—it should not be in that vein. There should be a requirement that the House can have a debate under the affirmative procedure if there are adverse effects from retrospective provisions. That is what we are talking about here, and that is the point we seek to make. We are not asking for a debate every time there is a change in the rules—that would be excessive, and I accept that there is a need for the negative procedure to be used in some cases.

The amendment would ensure that in circumstances in which primary legislation is being amended, or for changes that delve back into pension arrangements that people thought were protected, we should have the affirmative resolution procedure. The word "significant" leaves too much protection for Ministers; it is not much of a concession to have it added to the Bill.

If we are going to stand up for the security of public service employee schemes and accrued rights, if we are to prevent the drop-out rate from future pension schemes from escalating, and if we want public service employees to contribute to schemes and have confidence in them in the future, we need to ensure that we have certain backstop protections and rights in the Bill. That means ensuring, in the public interest, that all adverse, retrospective changes to public sector pension schemes will automatically receive a level of parliamentary scrutiny.

Of course, there is no guarantee that, on the day, the Government's majority will magically disappear or dry up in a Delegated Legislation Committee. Some of us, on occasion, feel that such Committees are a bit of a rubber-stamping exercise, but at least that rubber-stamping takes place in public with an opportunity to have a debate about the issues and a full airing of the questions, and to put the Minister on the spot with questions. That is not an unreasonable request. The word "significant" is unnecessary in subsection (1).

Mr McKenzie: As we heard from my hon. Friend, we take issue with the word "significant" in the mention of "significant adverse affects" brought by retrospective provision. What is significant to one person, as I have already said, is not necessarily significant to another. Retrospective changes really frighten people and make them ask, "Where am I now with my pension?" It is not a case of the pension possibly being gone tomorrow, but people want to know where there are now in case the pension is well and truly gone before they realise. There is a feeling that they are in the pension wilderness. There is a belief that benefits may be curbed and their rates may be subject to backdated changes, which must really worry those who are looking to the future and looking to a pension to retire on.

That all adds to reduced security, and reduced security and belief in pensions have an impact on people dropping out, which may increase. That is bad for society in several ways and would cause real difficulty for pensions in future. These days, there is difficulty in getting young people to engage in pensions. How do we sell pensions to them if we have to say, "You won't actually know today what your pension will be. It may change today. It may change tomorrow"? These worrying factors are kicking in for people who are starting their working life and looking to accrue a pension.

It only seems right therefore that all retrospective changes receive parliamentary scrutiny. It is correct that they should come back here. We should get the opportunity to examine proposals that will impact on thousands, if not millions, up and down the country. We need to be assured that such changes are fair, above board and reflect the need to provide good-quality pensions at the end of people's working lives. I ask the Government to take on board the need for all adverse retrospective changes to come in front of Parliament, and to remove the word "significant" so that all changes that affect pensions will result in consultation.

Sajid Javid: I thank the hon. Members for Nottingham East and for Inverclyde for their contributions. I will try to respond to their points. We had a lively debate on the issue of retrospection last week when discussing clause 3. I recognise that it is an area of genuine concern, and I am happy to try to reassure hon. Members again.

Amendment 70's purpose is to ensure that, whenever adverse retrospective changes are made in relation to scheme members, they will always be subject to the affirmative procedure. The clause, as drafted, requires the affirmative procedure only where the adverse effects on scheme members are deemed significant. The use of the word "significant" in this clause is important. It brings a sense of proportion to the requirement for the affirmative procedure. Where retrospective changes have an adverse effect that is not significant, the Government's view is that the additional parliamentary scrutiny of the affirmative procedure is not needed. However, where the adverse effect is significant, it is right that Parliament should scrutinise those changes more closely.

As we heard in our debates on clause 20, when retrospective changes are proposed that could have a significant adverse effect on members, the authority that proposes to make those changes must first consult those who are likely to be affected with a view to reaching agreement with them. That means that the consultation will have to be conducted in good faith—that goes without saying, of course—and in a consensual manner, so that agreement is a realistic possible outcome of the process. I referred to that standard as "enhanced consultation" earlier. The knowledge that consultation will have to be carried out on that basis can be expected to influence the nature of the proposals that form the subject of the consultation as well as the manner in which it is conducted.

Before draft regulations are brought before Parliament or a devolved legislature, the authority in question must also lay a report that will inform the debate on the regulations. Almost all retrospective changes will be either minor, technical or beneficial to members of pension schemes. If regulations have adverse effects on members, in the overwhelming majority of cases those adverse effects can be expected to be minimal. It is only where the adverse effects are significant that retrospective regulations have a real potential for unfairness.

[Sajid Javid]

In those circumstances, the protection of enhanced legislative scrutiny through the affirmative procedure will apply.

Chris Leslie: We need to get into some specifics. The Minister has promised in previous debates that he will not support reducing benefits that have already been accrued. He has given a verbal commitment to that, although we have not been able to get it into the Bill. What other retrospective changes with significant adverse effects does the Minister have in mind with regard to the provision in clause 21?

Sajid Javid: I do not have any particular significant changes in mind. The purpose of the provision is, first of all, to provide that we do not need to use the affirmative procedure for changes that are not significant. Where there are significant changes—and we cannot predict what changes may be proposed by authorities in the future—they need to be subject to a high hurdle, which is the purpose of the clause. Our intent is not to try to guess what changes might be proposed by future Governments. As we have already discussed, this Parliament cannot bind future Governments, but we want to ensure that where changes would be significant, as defined here and as discussed, there would be what I have referred to as an enhanced consultation procedure.

For those reasons, the Government believe it is inappropriate that all adverse retrospective changes be automatically debated, even if they are not significant. I therefore urge the hon. Gentleman to withdraw the amendment.

Chris Leslie: We are rehearsing issues on which the Minister has refused to budge, such as the question of ensuring that the Bill provides protection against the long arm of the Treasury coming in and retrospectively purloining people's accrued benefits. People may have thought they had some degree of security; in fact all we have in the Bill is a consultation requirement, although that requirement is not in force if the issue is consequential on the employer cost cap and applies only if there are "significant" adverse effects, which is such a subjective concept as to render the provision in clause 21 virtually meaningless.

The word "significant" is not necessary, particularly when we are talking about retrospective arrangements. Adverse effects with retrospective consequences ought, at the very least, to come before Parliament for a short discussion. The Minister seems to be suggesting that there will be too many things for poor old Parliament to cope with in the context of delegated legislation, but I cannot believe that that is the case. We need to put down a marker that says, "Be very wary before you start to tinker retrospectively with people's pensions and accrued benefits."

The Minister was not able to give any examples of what would be "significant" adverse effects compared with other adverse effects. He said that any changes would be overwhelmingly technical, but he did not rule out non-technical changes. We have to stand up for the rights of those who have accrued benefits and may do so in the future.

3.15 pm

Sheila Gilmore: If there is an adverse impact, surely it does not matter whether it is the result of a technicality. The adversity is the problem. The change might be highly technical, but it will still have an impact on those who are affected by it.

Chris Leslie: That is absolutely true. What might seem to be a small financial change to a Minister of the Crown might be an extremely large change to an ordinary public service worker on a very small income, which is why the subjectivity of the concept of significance needs to be challenged. We ought to stand up for the principle underlying amendment 70, so I want to test the opinion of the Committee.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 10.

Division No. 9|

AYES

Ashworth, Jonathan	Leslie, Chris
Gilmore, Sheila	McGovern, Alison
Jamieson, Cathy	McKenzie, Mr Iain

NOES

Burt, Lorely	Gibb, Mr Nick
Doyle-Price, Jackie	Hands, Greg
Evans, Graham	Javid, Sajid
Freer, Mike	Leadsom, Andrea
Fuller, Richard	Williams, Stephen

Question accordingly negatived.

Question proposed, That the clause stand part of the Bill.

Sajid Javid: It is the Government's view that most rules that are established in scheme regulations are detailed and technical provisions of the kind that would be found in most other pension schemes. Since scheme regulations will set up pension arrangements within the design framework established by the Bill, our view is that the negative procedure is appropriate in most circumstances. However, the Government recognise that there are instances when the affirmative procedure is justified, such as if scheme regulations seek to amend primary legislation or have significant retrospective adverse effects on members.

Powers that have retrospective effect are common features of pension schemes, including in the enabling powers for the existing schemes. They are mostly used to update schemes to reflect changes in membership, tax or general pensions law, and they allow for administrative convenience when making such changes. They mean that the full effects of changes that are often very complex can be worked out completely, but applied from an earlier date.

As I have said, the Bill provides for the affirmative procedure as a protection when retrospective changes have an adverse and significant effect on members of the scheme. That aims to protect members of the scheme from the effects of retrospective legislation, but in a proportionate way. The clause sets out the legislative procedures that apply to the making of scheme regulations.

The purpose of the clause is to establish the level of parliamentary scrutiny that is required of scheme regulations on the basis of their effect.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clause 23

NON-SCHEME BENEFITS

Chris Leslie: I beg to move amendment 73, in clause 23, page 12, line 40, at end insert

'provided that the payment of pension and other benefits under this section does not limit the obligations under schemes under section 1 to provide members with all the benefits set out in the scheme regulations.'.

Clause 23 is a funny little provision about non-scheme benefits. It says that scheme managers or employers can make payments as they think

"appropriate towards the provision, otherwise than by virtue of the scheme, of pensions and other benefits to or in respect of persons to whom the scheme relates."

I was going to ask the Minister to cover an aspect of this strange little clause, but perhaps I should elaborate on it for a moment—*[Laughter.]* Perhaps the Government Whip will be able to answer my question, because I suspect I might get more joy from him.

This very short clause has caused significant consternation in some quarters. Some public sector employees and their representatives are quite worried that it effectively undermines some of the other protections in the Bill.

It is my intention to ask the Minister—in as many ways as I can—to confirm that the clause would be used only to allow responsible authorities to make payments in addition to those required under the Bill. Alternatively, is the clause intended to allow responsible authorities to bypass those obligations and start making payments outwith the schemes that are allowed under the Bill?

Cathy Jamieson (Kilmarnock and Loudoun) (Lab/Co-op): Will my hon. Friend give way?

Chris Leslie: I shall be more than happy to give way.

Cathy Jamieson: My hon. Friend is being generous with his time on such a short clause. Does he agree that it could not possibly be the Government's intention to bypass a scheme inappropriately? Amendment 73 would simply help to clarify that the benefits under clause 23 would be in addition to benefits paid under schemes established by the Bill.

Chris Leslie: That was the question that I was asking of the Minister, but it is one of those questions that bears repetition, given the importance of the clause. Surely the Minister would not want the protections set out earlier in the Bill to be bypassed so that obligations for schemes established under clause 1 might not be fulfilled under some back-door provision allowed under clause 23. I did not think that that could be the Government's intention. Our simple amendment would clarify that any benefits paid under clause 23 must be in addition to benefits paid under the scheme, not in substitution. I am delighted that the Minister has listened so attentively to the debate.

Sajid Javid: I assure the hon. Gentleman that I have not missed any important point that he has made.

I hope that I can reassure the hon. Gentleman about the issue that he has fairly raised, but let me first set out the purpose of clause 23. The clause gives a power to make payments for pensions outside the schemes that will be established under clause 1. It allows scheme managers or employers to make pension or other benefit payments to people who could have access to schemes made under the Bill, outside the new schemes, where that is considered appropriate and subject to the normal administrative and governance arrangements that apply to the use of public funds. An example would be to make contributions to a personal pension scheme. The clause does not allow employers to override eligibility for main scheme benefits. Scheme regulations will specify who is eligible to be a member of a pension scheme made under the Bill. The clause could allow alternative arrangements to be offered, but not to be mandated.

I commend the hon. Gentleman for wanting to protect the obligations that will be set out in scheme regulations, but the fact is that the clause does not detract from those obligations. The reformed schemes that have to be negotiated in each sector will be set out in scheme regulations. They will apply to whoever they say they will apply to, so the amendment is unnecessary, and I ask the hon. Gentleman to consider withdrawing it.

Chris Leslie: It is uncanny, because it is as though our proceedings are being broadcast far and wide—[HON. MEMBERS: "They are."] Sometimes we forget.

I am grateful to the Minister for clarifying the situation. He will understand that we table amendments in such a way because it is important to pin down the Treasury. However, I will not detain the Committee any further, and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Sajid Javid: The pensions for which the Bill provides will be among the best available anywhere, but that does not mean that they will suit everyone or that they should be the only choice available. Clause 23 therefore gives a power to make payments for pensions outside the schemes that will be established under the Bill. Such a power already exists—for example, in section 1 of the Superannuation Act 1972.

The clause makes it clear that employers and scheme managers can make contributions to other pension schemes on behalf of their employees, such as to defined contribution schemes run by private sector providers. That happens already, and we see no reason why it should stop. The clause also allows alternative provisions to be made for providing pensions or other benefits, such as to meet circumstances that are not covered by a scheme available to a particular individual.

The clause has been described as unnecessary and as providing a back door to all kinds of alarmist scenarios. Allow me to set the Committee's mind at rest: it is not

[Sajid Javid]

intended to do any of those things. It simply allows scheme managers or employers to make pension or other benefit payments to people who could have access to schemes made under this Bill, outside the new schemes, when that is considered appropriate and subject to the normal administrative and governance arrangements that apply to the use of public funds.

The clause does not allow employers to override eligibility for main scheme benefits. Scheme regulations will specify who is eligible to be a member of a pension scheme made under the Bill. It could allow alternative arrangements to be offered, but they are not mandated. It will enable that current practice to continue when that is deemed appropriate.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 24

CONSEQUENTIAL AND MINOR AMENDMENTS

Question proposed, That the clause stand part of the Bill.

Sajid Javid: This clause provides for consequential and minor amendments to other pieces of legislation, including to existing legislation that provides for public service pension schemes and wider pensions legislation.

Cathy Jamieson: May I take a few seconds to agree with the Minister on this occasion, because we will not demur from anything in the clause? It simply triggers a "skedule"—or schedule, depending on how one wishes to pronounce it—containing consequential and minor amendments. We see nothing in the clause to which we object, but I may wish to say something about schedule 8.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Schedule 8

CONSEQUENTIAL AND MINOR AMENDMENTS

3.30 pm

Sajid Javid: I beg to move amendment 31, in schedule 8, page 44, line 36, at end insert—

20C A pension payable under a scheme made by the Scottish Ministers under section1 of the Public Service Pensions Act 2013 by virtue of section1(2)(d) of that Act (teachers).'".

The Chair: With this it will be convenient to discuss Government amendments 32 to 38.

Sajid Javid: The amendments make several refinements to the consequential changes that the Bill makes to schedule 2 to the Pensions (Increase) Act 1971 and its equivalent for Northern Ireland, which provide for the annual uprating of public service pensions. The changes apply to deferred pensions and pensions in payment. The amendments also make some technical changes to ensure that the powers under the 1971 Act are used only in the way they are intended.

The amendments will ensure that the schemes made under the Bill by the devolved authorities are listed in the correct places in schedule 2 to the 1971 Act. They build on, and clarify, the changes already proposed in schedule 8, and they do not extend them further, or introduce anything new.

The amendments will ensure that increases in benefits that are made under the 1971 Act or its equivalent in Northern Ireland will apply only to defined benefit pension schemes made under the Bill. It would not be appropriate for the 1971 Act to increase other schemes that might be made under the Bill, such as defined contribution pension schemes, and the amendments will make sure that that does not happen.

Cathy Jamieson: The Minister gave us a clear outline of what the Government amendments are intended to do. It is always good to see tidying-up amendments tabled to make sure that everything is, indeed, in its correct place.

As the Minister said, amendments 31 and 32 amend the Pensions (Increase) Act 1971 to refer to the Bill. Amendments 33 to 36 replace references to legislation relating to Wales and Scotland and references to the 1971 Act with references to the relevant parts of the Bill. Amendments 37 and 38 replace references to Northern Ireland with references to the relevant parts of the Bill. Amendments 41 and 42—crucially, I would imagine, for the people affected—make minor changes to payments from the general lighthouse fund under the Merchant Shipping Act 1995.

I like to pick up, at every opportunity, on changes made in relation to Scotland, and it is worth noting that the "skedule" or schedule—my hon. Friend the Member for Nottingham East and I have different accents—makes changes to the Sheriffs' Pensions (Scotland) Act 1961, which is important for a number of members of the judiciary in Scotland. I say that as a former Justice Minister there, and I am sure that members of the judiciary in Scotland will want to see that I am still on the case and looking after their interests, even though I have moved on from the Scottish Parliament to this place. That aside, the Opposition do not object to the amendments.

Amendment 31 agreed to.

Amendments made: 32, in schedule 8, page 44, line 41, at end insert—

22B A pension payable under a scheme made by the Scottish Ministers under section1 of the Public Service Pensions Act 2013 by virtue of section 1(2)(e) of that Act (health service workers).'".

Amendment 33, in schedule 8, page 45, leave out lines 6 to 21.

Amendment 34, in schedule 8, page 45, leave out lines 23 to 25 and insert—

39A A pension payable under a defined benefits scheme, within the meaning of the Public Service Pensions Act 2013, made by the Secretary of State or the Scottish Ministers under section1 of that Act by virtue of section 1(2)(c) of that Act (local government workers).'".

Amendment 35, in schedule 8, page 45, leave out lines 27 to 30 and insert—

43A A pension payable under a defined benefits scheme, within the meaning of the Public Service Pensions Act 2013, made by the Secretary of State or Scottish Ministers under section1 of that Act by virtue of section 1(2)(g) of that Act (police).

44 In the case of a scheme made by the Secretary of State, this paragraph does include a pension referred to in paragraph 15B above."'.

Amendment 36, in schedule 8, page 45, leave out lines 32 to 35 and insert—

44A A pension payable under a defined benefits scheme, within the meaning of the Public Service Pensions Act 2013, made by the Secretary of State, Scottish Ministers or Welsh Ministers under section1 of that Act by virtue of section 1(2)(f) of that Act (fire and rescue workers).

44B In the case of a scheme made by the Secretary of State, this paragraph does not include a pension referred to in paragraph 16B above."'.

Amendment 37, in schedule 8, page 46, leave out lines 25 to 28 and insert—

14B A pension payable under a defined benefits scheme, within the meaning of the Public Service Pensions Act 2013, made by a Northern Ireland department under section1 of that Act by virtue of section 1(2)(c) of that Act (local government workers)."'.

Amendment 38, in schedule 8, page 46, leave out lines 30 to 33 and insert—

16A A pension payable under a defined benefits scheme, within the meaning of the Public Service Pensions Act 2013, made by a Northern Ireland department under section1 of that Act by virtue of section 1(2)(f) of that Act (fire and rescue workers)."'.

Amendment 39, in schedule 8, page 48, leave out lines 30 to 33 and insert—

'"(fb) a committee of a relevant authority which is the scheme manager (or scheme manager and pension board) of a scheme under section1 of the Public Service Pensions Act 2013;".'.—*(Sajid Javid.)*

Sajid Javid: I beg to move amendment 40, in schedule 8, page 49, line 42, at end insert—

'Merchant Shipping Act 1995 (c. 21)

29A (1) Section 214 of the Merchant Shipping Act 1995 (pension rights of persons whose salaries are paid out of the General Lighthouse Fund) is amended as follows.

(2) The existing provision is numbered as subsection (1).

(3) After that subsection there is inserted—

"(2) Where pensions, allowances and gratuities to or in respect of persons whose salaries are paid out of the General Lighthouse Fund are payable otherwise than under subsection (1), sums in respect of those benefits may with the approval of the Secretary of State be paid out of that Fund."'.

The Chair: With this it will be convenient to discuss Government amendment 41.

Sajid Javid: Amendment 40 amends schedule 8 to allow a consequential amendment to the Merchant Shipping Act 1995. It is the Government's intention that the smaller pension schemes run by various public bodies be closed or reformed along the lines of the reforms to the major schemes and, in the former case, that their members be brought into one of the main public service pension schemes. The pension schemes run by the three general lighthouse authorities are examples of such schemes.

Pensions paid to the employees of these authorities are currently paid out of the general lighthouse fund established under the Merchant Shipping Act 1995. That Act provides for pension payments to be made out of the fund for those pensions. However, it does not provide for the transfer of pension rights already accrued to be paid out of the fund. These types of payments, known as bulk transfers, will be necessary to transfer accrued rights into a new scheme if that is what the Government decide. The proposed amendment enables that by allowing payments to be made out of the general lighthouse fund which will include the bulk transfers.

Amendment 41 amends schedule 10 by replacing the reference to the Northern Lighthouse Board with the correct name of this body, which is the Commissioners of Northern Lighthouses. It does not change the policy objective or the persons affected in any way. It simply clarifies the name of the public body in question.

Cathy Jamieson: I am sure there will be great interest in the correct terminology. I will resist the temptation to ask the Minister how many lighthouses or how many individuals could be affected by this change. We will give him some respite and not seek an answer to that question just now. It is right to ensure that the Bill uses the correct terminology and that where pension rights have to be transferred, it is done correctly. We would not want any unintended consequences of drafting that did not have the correct terminology. I am sure that everyone who might be affected will be pleased that the Minister has brought forward these amendments.

Amendment 40 agreed to.

Question proposed, That the schedule, as amended, be the Eighth schedule to the Bill.

Sajid Javid: The schedule lists the consequential and minor amendments to other pieces of legislation that will be made by the Bill. These amendments include changes to the existing legislation which provides for public service pension schemes, and changes to wider pensions legislation. Many of these amendments will help to prevent existing legislation from being used to create new pension schemes, and in some cases injury or compensation schemes, for public service workers. This will ensure that in future any new schemes for these workers will be made under the provisions in the Bill.

The amendments also ensure that the new pension schemes made under the Bill will be included in the annual Treasury order that uprates all public service pensions in payment. Other amendments will allow parliamentary staff to join the civil service pension scheme; allow pensions for judges at the European Court of Human Rights to be made under the Bill; allow all members of pensions boards established as a committee of a local authority to vote in that committee; and ensure that judges' pensions will always remain a matter for the Lord Chancellor.

Question put and agreed to.

Schedule 8, as amended, accordingly agreed to.

Clause 25

EXISTING LOCAL GOVERNMENT SCHEMES

Question proposed, That the clause stand part of the Bill.

Sajid Javid: The clause allows for the proposed new local government pension schemes, which may be made under existing powers before Parliament completes its consideration of the Bill, to continue after the provisions of the Bill come into effect. The agreement reached with the employer and employee representatives of the local government pension schemes included an earlier date

[Sajid Javid]

for implementing reforms. Accordingly, the new local government pension schemes in England and Wales and in Northern Ireland will be in place from 1 April 2014. Given that timing, those changes may be delivered through regulations laid under existing powers in the Superannuation Act 1972 and the Superannuation (Northern Ireland) Order 1972, rather than under clause 1 of the Bill.

The reason for this measure is to allow local authorities sufficient time to ensure that the new schemes can be implemented in April 2014. That could be difficult if the relevant Ministers had to wait for the Bill to be enacted before putting new scheme regulations into place. That is why the clause allows for the local government pension schemes regulations, as far as they apply to benefits arising from service after 1 April 2014, to be regarded as though they were scheme regulations made under this Bill. To do otherwise could require regulations to be made in 2014 to effect the changes already agreed, and then require subsequent regulations to allow a scheme to continue for employment after April 2015. That would clearly not be the best use of departmental resources or parliamentary time, and would place unnecessary burdens on employers, members and administrators of the schemes. Equally, it is important that the new local government pension schemes are schemes under the Bill; that will ensure that the common framework applies in the same way to the local government schemes as to all the other public service schemes.

The new governance framework of scheme managers, pension boards and independent oversight will apply. The standard scheme design features required by the Bill will apply consistently to the schemes, as will the cost control measures and consultation procedures. The clause contains appropriate safeguards to ensure that a local government pension scheme may only be regarded as a scheme made under the Bill if it is indeed a scheme that could have been made under the Bill.

Chris Leslie: This is another clause that seems to cut across the way that clause 16 was drafted. We had a discussion when considering clause 16 about the decision of Ministers to talk about the "closure" of existing schemes. As we heard in the evidence session, Lord Hutton and others, from the Local Government Association to the Chartered Institute of Public Finance and Accountancy to mention but a few, were concerned about the way that the Bill seemed to be closing existing schemes and opening new ones rather than amending the existing arrangements so that we can have a smooth transition—and, incidentally, reduce the potential costs of having two sets of fund managers, administrators and the like.

Here in clause 25 we find the Government almost acknowledging that there are a few problems with this particular design; through their wish to keep legal effect for existing rules for local government schemes rolling forward even though they are talking about the closure of schemes, they are acknowledging that, going forward, they do not want to wind up those particular schemes. Would it not have been better when designing the legislation simply to have made sure that we were talking about the amendment of existing funded schemes, rather than sticking to the point about closing schemes simply for the sake of saying that schemes are closing? That is, self-evidently, not the best way forward, as clause 25 seems to imply. It would have been better if clause 16 had been redrafted so that local government schemes are not closed, and clause 25 could have proper effect in that way. It is a strange way to go about legislating, and we are still not convinced that that approach to designing the Bill was particularly wise.

Sajid Javid: We discussed clause 16 in some detail earlier, so I will not reiterate those arguments. I said at the time that I thought the hon. Gentleman made some good points and that I had tried to provide reassurance. I also said that if he felt, on reflection, that that reassurance was not enough, we would look at the matter again.

3.45 pm

At the rate that we are scrutinising the Bill in Committee, and with the support of the hon. Gentleman and his colleagues, it is possible that it might progress through both Houses and receive Royal Assent by spring 2013. In that case, clause 25 would not be needed. One might look at it as a contingency provision. If progress were slower than that, it would allow scheme regulations to be made in time for the forthcoming scheme valuations to take account of the reforms and would allow the administrative process to be in place in time for April 2014.

Question put and agreed to.

Clause 25 accordingly ordered to stand part of the Bill.

Clause 26

EXISTING SCHEMES FOR CIVIL SERVANTS: EXTENSION OF ACCESS

Question proposed, That the clause stand part of the Bill.

Sajid Javid: With your permission, Mrs Brooke, it would be convenient to talk to related schedule 9 at the same time as clause 26. Currently, admission to the principal civil service pension scheme is restricted to those employed in the civil service or as set out in schedule 1 to the 1972 Act. Admission to schedule 1 is restricted to organisations and offices where staff costs are publicly funded. In a similar way, the Superannuation (Northern Ireland) Order 1972 limits membership to members of the Northern Irish civil service or as set out in schedule 1 to the 1972 Order. That prevents staff who are transferred to an independent provider of public services—including the private sector, the voluntary sector and mutuals—from continuing to be eligible for membership of their civil service pension scheme.

Clause 26 and schedule 9 amend the Superannuation Act 1972 and the Superannuation (Northern Ireland) Order 1972 so as to extend access to the civil service pension schemes created under those pieces of legislation. Schedule 9 extends the coverage of those schemes by allowing the Minister for the Civil Service, or the Minister for Finance and Personnel in relation to the Northern Ireland scheme, to specify service in a wider range of employments or offices as being eligible for membership. That will apply where the newly eligible staff have been transferred from the civil service, and it can include instances where the transfer took place before the Bill received Royal Assent.

That change in access to the civil service scheme will allow the new fair deal policy to be implemented for the civil service before the new civil service pension scheme is introduced in 2015. The revised policy is intended to remove the barriers to greater plurality of public service pension provision, encouraging a more diverse range of potential bidders to offer innovative and efficient ways to deliver the best public services. It also addresses the concerns of the current civil service work force around the formation of mutuals or the outsourcing of functions.

The Chair: I call Mr Leslie, who might also want to comment on schedule 9.

Chris Leslie: Indeed, the clause and schedule are linked together. Provisions in schedule 9 amend the Superannuation Act 1972, which currently restricts membership of schemes made under the Act to those in employment in the civil service or other types of employment listed in schedule 1 to the 1972 Act. That means that once employees leave that employment, they are no longer entitled to remain in the public service schemes made under the Act. I would like to ask the Minister how the arrangement affects the new fair deal, which the Government have promised to all public service workers.

There are comments in the explanatory notes that suggest that there are some ways in which the fair deal may not be brought under the auspices of the Bill. The new fair deal, as I understand it, will allow public service workers who are outsourced to a private contractor to remain active members of their public service pension scheme. While clause 26 and schedule 9 are welcome, they draw attention to the fact that the details of the new fair deal do not appear in the Bill. Essentially, that means that the Government are not giving legislative protection to those arrangements.

We have tabled new clauses for debate later on in which we have sought to bring effect to some of the fair deal provisions, but this is also a useful opportunity, which I am sure the Minister will want to take, to talk about how the new fair deal arrangements will be affected by the Bill. I say that particularly given the comments on page 37 of the explanatory notes, which mention primary legislation that might be due on the new fair deal arrangements. However, those arrangements do not necessarily seem to have got the protections that they ought to have had, given the opportunity that this Bill provides. The many former public service employees who have found themselves transferred to the private sector will be listening closely to the Minister's comments.

Cathy Jamieson: I know my hon. Friend will be aware of the witness submission made by the Public and Commercial Services Union, which highlights this clause and makes reference to discussions that took place with the Minister. Does he agree that it would be useful if the Minister would update us on the discussions that have taken place and any assurances that he has given to the trade unions?

Chris Leslie: That is exactly what we are looking for, and no doubt inspiration will be forthcoming as the Minister reflects on our comments and the questions that we have asked. It is important that, having gone through the negotiation process, we ensure that there are some protections for public service workers who find themselves working for private contractors in an outsourced environment. We want to ensure that, in the undertaking of transfer arrangements, there are protections that can be transferred across that will have some legislative effect. It would be useful if the Minister could give us a commitment in that regard, as that is our main question on clause 26 and schedule 9. We understand why the provisions are framed in this way, but it would be helpful if he would clarify what is happening with the protections for the new fair deal arrangement.

Sajid Javid: I thank the hon. Gentleman for his comments. He specifically raised issues about the fair deal. As he knows, it is a non-statutory policy. On 4 July 2012, the Government announced that they would review the policy, working with trade unions and other stakeholders. I can tell him a few things about the fair deal, but it may be information that he is already aware of. I am not directly involved in the fair deal discussions but, as he knows, the Government committed to policy reform when we formally announced our intentions for newly transferred staff in July. We have agreed to maintain the overall approach to the fair deal, delivering it by offering newly transferred staff access to public service pension schemes. That is something that, I think I am right in saying, most trade unions wanted to see and have welcomed. That approach will ensure that those transferred staff will continue, in general, to have access to good quality pensions while helping to remove barriers to plurality of public service provision. We recently published a formal response to the fair deal consultation and said that there would be further consultation and draft guidance. As this discussion is not about the fair deal itself, I hope I have said enough and that it will be helpful.

Question put and agreed to.

Clause 26 accordingly ordered to stand part of the Bill.

Schedule 9 agreed to.

Clause 27

NEW PUBLIC BODY PENSION SCHEMES

Question proposed, That the clause stand part of the Bill.

Sajid Javid: This clause provides that any pension scheme established to provide benefits for the staff of a statutory body after the enactment of the Bill must have the same common features that the Bill requires of new public service pension schemes.

Our reforms are intended to apply to all pension schemes for public service workers. Where no direct reform is made in the Bill, the clauses have been cast in such a way as to permit future reform. Clause 27 ensures that any future pension scheme for employees of any statutory body shall comply with the framework for pensions established by the Bill whether that scheme is defined benefit or defined contribution in design.

All schemes will be required to have the same governance, transparency and administrative arrangements. They will all be required to meet the common design requirements on pension age, the type of scheme that may be offered, the revaluation of benefits and the cost control mechanisms that apply to the new schemes for other public service

[Sajid Javid]

workers. Our reforms are universal and it would be inappropriate for any part of the public service to be treated differently.

Chris Leslie: The clause is essentially a parallel provision to ensure that new public bodies have the same arrangements consistently applied to their pension schemes as other public bodies, and it is therefore relatively uncontroversial. There are, however, equal concerns among those working for public bodies as among those in other public service schemes, whether in the civil service, NHS or local government schemes.

The only question I wanted to ask concerns the nature of public bodies. There are a lot of different types of public body, some of which are known as quangos. We have had changes to those recently. Will the Minister clarify that he envisages "public body" in this sense as including a non-ministerial Government Department? There is a crucial difference between a non-departmental public body and a non-ministerial Government Department. I want to ensure that NMGDs are covered by the same provisions as NDPBs.

Sajid Javid: I thank the hon. Gentleman for that. On his last point about whether the clause covers non-departmental public bodies or those that are part of Ministries, and so not quangos, they are all covered by the same arrangements. The clause applies to them equally. As he mentioned, there are many hundreds of public bodies. In most cases they do not have individual schemes; they are typically part of main public body schemes, the larger ones that already exist.

The purpose of the clause is to future-proof the Bill. We want to ensure that if a future Government decided that a new scheme had to be created for a particular public body, it would follow the principles enshrined in the Bill, which all other public sector schemes must follow.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Clause 28

Closure of certain existing public body pension schemes

4 pm

Chris Leslie: I beg to move amendment 74, in clause 28, page 14, line 21, after 'body', insert 'final salary'.

The Chair: With this it will be convenient to discuss Government amendments 13 to 20.

Chris Leslie: This is a moment of great triumph for the Opposition, as far as I can tell. Amendment 74 was intended to deal with the drafting changes necessary to ensure consistency in the Bill. However, it turns out that the Government amendments, particularly amendment 14, largely addresses the question that amendment 74 was designed to raise. Government amendment 14 broadly resolves the problem of ensuring that only final salary schemes will be closed by the clause.

We were concerned that, as currently drafted, the clause would have closed all schemes for employees of the public bodies listed in schedule 10, not only the final salary ones, which would have resulted in the unnecessary closure of some schemes. The Minister has addressed the problem in his amendments, but it would be useful if he assured us that none of the bodies listed in schedule 10 already has a career average scheme that should not be closed to future accrual. That was the specific point that I wanted to make.

The Government amendments, which have been grouped with amendment 74, remove references to closing schemes—for example, the words "must close the scheme" in subsection (2)—and replace them with references to amending schemes. Given our earlier debate about how, for local government pension schemes, there was a problem with the closing of schemes—we would have prefer them to be amended—that is probably a step in the right direction.

The Minister seems to think that, in respect of public body schemes, amending them is often preferable to closing them and opening others. We are slightly mystified about why he did not take a similar route in relation to local government pension schemes. That may be because the Government are relying on the provision he pointed out earlier in section 75 of the Pensions Act 1995, but I am not clear why he has not removed the word "closure" from the provisions on local government pension schemes.

That takes us back to the crystallisation of debts and how we can deal with such matters. It is, of course, more sensible to amend schemes. Even for unfunded schemes, where there cannot be a section 75 liability, closing schemes and opening others is much less efficient and more costly than simply providing for such schemes to be amended.

The fact that public body schemes can be amended rather than closed shows that there is no fundamental problem with amending schemes to achieve the necessary reforms. That should be borne in mind in relation to local government pension schemes. Perhaps it presages a change in attitude by the Treasury to such arrangements. There is no need for me to talk about all the Government amendments, as the Minister will no doubt do so.

Sajid Javid: I thank the hon. Gentleman for moving amendment 74, which gives us the opportunity to look at a smaller, but no less important element of the reforms. Lord Hutton's interim report made it clear that the process of pension reform was equally applicable to public bodies. In his written ministerial statement on 16 July, the Chief Secretary provided the House with details of how such public body pension schemes would be reformed.

The Bill will close the existing unfunded defined benefit pension schemes relating to the public bodies listed in schedule 10 to future accrual. In their place, it will allow the major public service pension schemes to be extended to provide pension benefits to employees of new and existing public bodies, or, in compelling circumstances and provided they follow Lord Hutton's design recommendations, new bespoke pension schemes for public bodies may be allowed.

The amendment would restrict reform to public body schemes that are final salary in design. Such a restriction would, for example, allow employees and office holders

of public bodies operating pension schemes that are analogous to the civil service Nuvos scheme to continue accruing benefits in those schemes while the Nuvos scheme is reformed. Although I can understand the amendment's underlying intention, I fear that it may have unintended consequences by exempting schemes that offer a mix of benefits from reform. The process of reforming public body pension schemes is not as far advanced as the reforms to the major schemes, so we cannot say with any certainty that the schemes that need to be reformed are exclusively final salary schemes. That would be unfair and unjustifiable. No public body employees provide more vital a service to the public than, for example, nurses or the armed forces. The pension reforms recommended by Lord Hutton go further than simply reforms to final salary schemes.

Cathy Jamieson: I refer the Minister to the written submission from the PCS, which makes reference to the Commonwealth War Graves Commission and ongoing consultation about placing new staff into a defined contribution scheme. Will the Minister put something on record today to give comfort to those who share the concerns raised by the PCS?

Sajid Javid: I have not seen that submission, but I will take a look and then perhaps come back to the hon. Lady.

For the reasons that I have set out, I hope that the hon. Member for Nottingham East will consider withdrawing amendment 74.

I shall now speak to the Government amendments. Amendments 13, 15, 16 and 18 clarify that it is the public authority responsible for the public body schemes relating to the public bodies listed in schedule 10 that must apply the provisions of clause 28 to those schemes and reform them in line with reforms to the major schemes. The amendments will ensure that there is no ambiguity about who is responsible for ensuring that benefit schemes relating to the public bodies listed in schedule 10 are reformed.

Amendment 14 ensures that defined contribution schemes and injury and compensation schemes relating to the public bodies listed in schedule 10 are not to be closed to future accrual by the Bill. Amendment 17 clarifies that closures of defined benefit public body schemes to future accrual, and exceptions to those closures to allow for transitional protection, might be achieved by reforming the existing schemes. It also ensures that death in service benefits in existing public body defined benefit schemes relating to the public bodies listed in schedule 10 are restricted by clause 28.

Amendments 19 and 20 provide greater clarity on the limits placed on powers that have been used to create the existing public body schemes that are closed to future accrual by subsection (2). Amendment 19 clarifies that the powers used to create the public body schemes closed to future accrual by subsection (2) cannot be exercised to create new schemes once the Bill is enacted. Amendment 20 makes it clear that that limit on the exercise of such powers only prevents their use to create new defined benefit schemes. Any future defined benefit schemes relating to public bodies listed in schedule 10 must be made using the powers in clause 1 or, if members are not eligible to join a clause 1 scheme, in clause 28(4).

Chris Leslie: I think that we have debated the issue sufficiently, so I do not wish to press the matter any further. It was important to have the debate and to get the Minister's words on the record.

Sajid Javid: May I answer the question posed by the hon. Member for Kilmarnock and Loudoun about the Commonwealth War Graves Commission? Those schemes are funded, and they are not included in schedule 10.

Chris Leslie: My hon. Friend seems satisfied with that helpful response from the Minister. I do not wish to detain the Committee any further, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendments made: 13, in clause 28, page 14, line 23, leave out from 'authority' to 'service' and insert

'responsible for the scheme must make provision to secure that no benefits are provided under the scheme to or in respect of a person in relation to the person's'.

Amendment 14, in clause 28, page 14, line 24, at end insert—

'( ) Subsection (2) does not apply—

(a) in relation to a public body pension scheme which is a defined contributions scheme, or

(b) to injury or compensation benefits.'.

Amendment 15, in clause 28, page 14, line 25, after 'authority', insert 'responsible for the scheme'.

Amendment 16, in clause 28, page 14, line 25, leave out 'closure' and insert

'provision made under subsection (2)'.

Amendment 17, in clause 28, page 14, line 27, at end insert—

'( ) Provision made under subsection (2) or (3) may in particular be made by amending the public body pension scheme.

( ) In subsection (2), the reference to benefits in relation to a person's service includes benefits relating to the person's death in service.'.

Amendment 18, in clause 28, page 14, line 29, after 'authority', insert 'responsible for the scheme'.

Amendment 19, in clause 28, page 14, line 32, leave out

'the scheme closed under subsection (2)'

and insert

'a scheme to which this section applies'.

Amendment 20, in clause 28, page 14, line 34, leave out 'a new scheme' and insert

'a new defined benefits scheme in relation to the body or office'.—*(Sajid Javid.)*

Chris Leslie: I beg to move amendment 75, in clause 28, page 14, line 39, leave out subsection (7)(b).

This is a simple amendment. Hon. Members will see that there are provisions in the clause for the closure of certain existing public body pension schemes. The Treasury is allowed by order—in other words by the Minister signing a piece of paper—to amend schedule 10 to

"remove any body or office specified there".

I suppose that that is okay, but the Treasury can also

"add any body or office to it (by name or description)."

In other words, the Treasury has the power drastically to amend any career average or other defined benefits scheme relating to a public body simply by adding that public body to the list in schedule 10.

[Chris Leslie]

Changes of such a magnitude should normally be made in primary legislation, and certainly not under the negative procedure. Such a provision should at the very least be subject to the affirmative procedure. I am quite surprised that the Minister has drafted the Bill in such a draconian way that public body pension schemes can be closed down or amended significantly simply by virtue of the flick of a pen, without parliamentary scrutiny. Obviously we wanted to pick up on this power that the Minister seeks to take for himself, and I hope that he will reflect on whether this strikes the right balance of protections for members of public body pension schemes.

Sajid Javid: Schedule 10 lists the public bodies whose defined benefit pension schemes will be closed to future accrual. However, there are very good reasons why the list is not comprehensive at this time. Public body pension reform is not as advanced as the reforms to the major schemes. We had to concentrate our efforts on dealing with the major schemes first before turning to smaller public bodies operating schemes. The Bill therefore needs to be flexible enough to be able to admit new bodies into schedule 10 for reform as and when such schemes that are ready for reform are identified.

We are waiting to hear whether the Scottish Parliament or the Northern Ireland Assembly wish to use the powers in the Bill to reform their devolved public body pension schemes. If they do—and it is a decision for them—some of those public bodies may need to be added to the schedule. Furthermore, the arrangements surrounding some public body pension schemes mean that it would not be appropriate to include them until proper arrangements have been made with other relevant authorities. There are a number of public bodies in Northern Ireland that afford pension provision to staff through the north/south pension scheme. Any changes to that scheme require the consent of the pension committee of the North/South Ministerial Council, and the Finance Minister in Northern Ireland and the Republic of Ireland.

When it becomes appropriate for such public bodies to be added to schedule 10, it will be important that the Treasury has the power to do that.

The affirmative procedure is unnecessary because any changes to schedule 10 are likely to be technical and, secondly, because the Government have been very clear about how these pension schemes will be reformed, so members of the schemes should be well aware that their pensions are in scope for reform. In any event, hon. Members will be aware that any instrument subject to the negative procedure could still be debated by the House if hon. Members feel that the subject matter merits wider discussion. I therefore urge the hon. Gentleman to withdraw the amendment.

4.15 pm

Chris Leslie: I am grateful to the Minister for at least addressing the issue, but it is a pity that he is unable to accept the amendment. It is important that we stand up for those who might be members of these schemes in future. I remain of the view that such an important measure should have the protection of at least the affirmative procedure. However, we will no doubt return to some of these questions, so I will not press the matter any further for the time being. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause, as amended, stand part of the Bill.

Sajid Javid: The clause requires the closure to future accrual of defined benefit pension schemes relating to public bodies listed in schedule 10. Unlike under clause 16, no closing date is specified, but we anticipate that action should nevertheless be taken by April 2018.

A number of bespoke defined benefit pension schemes exist for the payment of pensions to employees of public bodies, such as non-departmental public bodies, arm's length bodies and other statutory offices. Our reforms apply to those schemes in exactly the same way as they apply to other parts of the public service.

In future, we will avoid recreating that proliferation of small schemes. Most existing schemes mirror the arrangements of one or other of the schemes for civil servants. Historically, staff of public bodies have not been eligible for access to civil service or other public service pension schemes, which has led to the creation of schemes by analogy, or analogous public body schemes. That is unnecessary, cumbersome and inefficient. In future, the default position will be that if there is a need to create a new public body, the staff of that body will be eligible to join one of the major public service schemes established under clause 1.

Existing employees and office holders will in most cases accrue future benefits under one of the new public service schemes established under clause 1. In exceptional circumstances, the Treasury—or the Department of Finance and Personnel in respect of Northern Ireland public bodies—may consent to the establishment of a new public body scheme for members of a scheme that is closed under this clause. Our reforms should apply to all pensions in respect of holders of public office. It would be inappropriate for any part of the public service to be treated differently.

Question put and agreed to.

Clause 28, as amended, accordingly ordered to stand part of the Bill.

Schedule 10

PUBLIC BODIES WHOSE PENSION SCHEMES MUST BE CLOSED

Amendment made: 41, in schedule 10, page 54, line 3, leave out "Northern Lighthouse Board" and insert "Commissioners of Northern Lighthouses"—*(Sajid Javid.)*

Question proposed, That the schedule, as amended, be the Tenth schedule to the Bill.

Sajid Javid: As I have explained, the schedule lists the public bodies that will, by virtue of clause 28, be obliged to cease providing future pension benefits under their defined benefit pension schemes, except when transitional protection applies. The 14 public bodies listed in the schedule are a small fraction of the more than 400 non-departmental public bodies, arm's length bodies, and other statutory bodies and offices currently in operation. Some, but not all, will have their own pension

schemes. The 14 public bodies currently listed represent the start of extending the reform process to those smaller schemes. The schedule can be amended using the power in clause 28(7) to include other bodies as necessary to roll out the reforms.

I note that most of the unfunded defined benefit schemes run by the 14 public bodies operate by analogy, with similar provisions to one of the major public service schemes. Such duplication is inefficient and, thanks to the Bill, will become unnecessary. The powers in the Bill will allow most of the members of pension schemes run by the listed public bodies to join one of the major public service schemes made under clause 1. We anticipate that that will be the normal method of reforming pension provision for such public servants. Only in exceptional circumstances will they be allowed to establish a new public body scheme.

Question put and agreed to.

Schedule 10, as amended, accordingly agreed to.

Clause 29

EXISTING PUBLIC BODY PENSION SCHEMES: PENSION AGE

Question proposed, That the clause stand part of the Bill.

Sajid Javid: The clause allows existing public body pension schemes to include a provision linking normal and deferred pension age to the state pension age or age 65, whichever is higher. The state pension age link is a means of managing the increasing costs of greater longevity. The clause enables existing public body pension schemes to include that reform without having to close and reopen. It is consistent with the link with state pension age that will be a part of the schemes made under the Bill.

The clause gives existing public body pension schemes that do not fall within the reform obligations in clause 28 the option to align their normal and deferred pension age with the state pension age or 65, whichever is higher. If the scheme established it, the link would affect all benefits earned after the change comes into effect. It will not affect benefits earned before the state pension age link provision was included in the public body pension scheme. That means that the effect of a change in the state pension age would be applied to all benefits earned after the link provision was introduced. The effective underpin of age 65 to state pension age is intended to catch the small number of women whose SPA will not be 65 by the time the Bill comes in to force.

Chris Leslie: If the Minister picks up a copy of his Bill, he will see that clause 29 states:

"A public body pension scheme established before the coming into force of this section may include"

the link to normal and deferred pension age and so on. However, if he turns to clause 9, he will note that, for everyone else:

"The normal pension age of a person under a scheme under section 1 must be…the same as the person's state pension age, or…65, if that is higher."

Why the difference? Why is there a permissive provision for public body pension schemes under this clause, but a mandatory arrangement for those under clause 9?

Sajid Javid: If it is okay with the hon. Gentleman, I will take a closer look at those provisions and get back to him.

Chris Leslie: This is a crucial aspect of whether clause 29 has the same bite, effect and strength as clause 9, because there is obviously no leeway in that clause. Under clause 9, it is a requirement—it "must" be—that the normal pension age is the same as the person's state pension age, or 65 if that is higher. However, for public body schemes, that "may" be the case, which presumably means that it may not be the case. This is therefore quite relevant, so any inspiration that the Minister can provide would be quite useful.

Sajid Javid: As the hon. Gentleman will know from our earlier discussion, we have added some public bodies to schedule 10 already, but there are many other public bodies to go. I think that his question is answered by saying that the provision is permissive because it allows bodies that we have not yet identified in schedule 10 to make the necessary change—to make the link to the state pension age. Over time, as we identify these bodies one by one and they are added to schedule 10, they will have no choice—they must make this reform in relation to state pension age. There will be situations in which a public body scheme may choose—I use the word "may"—to make the link itself, but if it has not done so in the appropriate time, it will be added to schedule 10 and must make the reform.

Chris Leslie: It is interesting that this is to do with adding further public bodies under schedule 10, but I still do not quite understand why there is not the same stricture. The Minister insists in relation to all the other pension schemes that there must be the link to the state pension age, so for there to be a question in this regard seems to suggest that there is an anomaly in the drafting of the Bill. Perhaps the Minister will consider whether that was indeed the intention of his officials, as this leaves quite a big question about whether there is equal treatment for public bodies.

Sajid Javid: I do not believe that there is any need for redrafting, but I am always willing to take a second look at things. Given the importance of the Bill and the seriousness with which the hon. Gentleman has dealt with it over the last few weeks, the least I can do is to have another look if he has requested that I do so. However, I believe that the way in which the provision has been drafted means that it will have the intended consequence that all public body schemes will need to have the link with the state pension age, just as the main public sector schemes do.

Question put and agreed to.

Clause 29 accordingly ordered to stand part of the Bill.

Clause 30

GREAT OFFICES OF STATE

Question proposed, That the clause stand part of the Bill.

Sajid Javid: The clause introduces schedule 11, which closes the current pension provisions for the great offices of state for future office holders and enables those office

[Sajid Javid]

holders to remain members of relevant parts of parliamentary pension schemes instead. All the detail of the changes to the pension provisions is included in schedule 11 so, if it pleases the Committee, we may save the debate when we consider schedule 11 and the amendments to it that I have tabled.

Chris Leslie: This is interesting, because it might be that we are about to have a natural break in our proceedings prior to considering schedule 11. I do not especially want to engage in a long debate on clause 30 at this stage, given its overlap with schedule 11, if that provision is to be dealt with in a later sitting. I have a number of questions, but as clause 30 and schedule 11 are linked, it might be appropriate for them to be dealt with when we eventually consider schedule 11.

Question put and agreed to.

Clause 30 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Greg Hands.)*

4.30 pm

Adjourned till Thursday 22 November at half-past Eleven o'clock.