BRIEFING NOTE FOR COMMITTEE FOR SOCIAL DEVELOPMENT ON THE WESTMINSTER PENSIONS BILL 2011

Background

1. The Westminster Pensions Bill was introduced in the House of Lords on 12 January 2011 and the House of Commons on 27 April 2011. It contains proposals relating to:

   - State Pension;
   - Automatic enrolment into workplace pensions;
   - Occupational Pension Schemes and Pension Compensation and other miscellaneous amendments; and
   - Judicial Pensions.

Bill Overview

2. The Bill has five parts:

   - Part 1 (which includes Schedules 1, 2 and 3) introduces provisions for amending the State Pension framework.

   - Part 2 contains measures to amend the automatic enrolment provisions for workplace pension schemes. Amendments are also made to incorrect references in previous legislation.

   - Part 3 (which includes Schedule 4) contains amendments regarding indexation and revaluation requirements for occupational pensions and payments from the Pension Protection Fund. Part 3 also contains provisions relating to the Pension Protection Fund, the Pensions Regulator and the Financial Assistance Scheme, and includes minor technical amendments to previous pension legislation.

   - Part 4 (which includes Schedule 5) introduces provisions to allow contributions to be taken from salaried judicial office holders and public investigative officers towards the cost of providing personal pension benefits.

   - Part 5 contains miscellaneous and technical measures.

3. The provisions relating to the Financial Assistance Scheme and judicial pensions extend to Northern Ireland. As the Assembly has already debated these provisions and passed a Legislative Consent Motion in respect of them, these provisions are not covered in the briefing.

Summary of Main Provisions

State Pension

4. Under existing legislation, State Pension age:

- for women is scheduled to equalise with men's at 65 by 2020; and
- to increase to 66 for men and women by April 2026, 67 by April 2036 and 68 by April 2046.

5. The Bill provides for:

- women's State Pension age to reach 65 by November 2018; and
- the increase to age 66 to be phased in by April 2020.

6. The effects of these proposals are set out in Annex 1 and Annex 2.

7. The Bill also provides for:

- the abolition of Payable Uprated Contracted-out Deduction Increments; and
- consolidation of Additional State Pension.

Automatic enrolment into workplace pensions

8. The Pensions Act 2008 introduced a requirement for all employers to automatically enrol eligible employees into a qualifying workplace pension scheme from 2012.

9. An independent review was announced in June 2010 to examine the scope of the automatic enrolment policy. Recommendations were published in October 2010 in the report "*Making Automatic Enrolment Work*" and provide the basis for several measures in the Bill. These include:

- the introduction of a new earnings trigger (£7,475) at which an employee must be automatically enrolled into a workplace pension and new up-rating provisions for the qualifying earnings band on which contributions are made;

- the introduction of an optional waiting period of up to three months before the automatic enrolment duty commences; and

- changes to the way an employer can certify that their pension scheme meets the necessary quality test.

Occupational Pension Schemes and Pension Compensation

10. A number of provisions flow from the Westminster Government's decision to use the Consumer Prices Index rather the Retail Prices Index as the general measure of inflation for up-rating of social security benefits, State Pensions, public sector pensions, private sector occupational pension schemes and pension compensation payments made by the Pension Protection Fund.

Detail

Part 1: State Pension

11. Part 1 of the Bill deals with changes relating to the increase in State Pension age for men and women, the abolition of Payable Uprated Contracted-out Deductions and consolidation of the Additional Pension.

State Pension Age

12. Under existing legislation, women's State Pension will gradually increase to 65 by 2020. State Pension age for men and women will increase to 66 by April 2026, 67 by April 2036 and 68 by April 2046.

13. In June 2010, the Westminster Government announced a review[1] of the timetable for increasing State Pension age to 66. Consultations were carried out in Great Britain and Northern Ireland. The response was published in November 2010 in the White Paper "*A sustainable State Pension: when should the State Pension age increase to 66*" (Cm 7956).

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1. A Call for Evidence on the timing of the increase in State Pension age to 66 was published in June 2010.

14. The Westminster Government concluded that the current timetable for increasing State Pension age is unsustainable in light of increasing life expectancies and an older population. They have, therefore, proposed to phase-in the increase to 66 between December 2018 and April 2020.

15. The existing gap between the State Pension ages for men and women cannot legally be widened by increasing men's State Pension age to 66 before the ages have equalised. In order to achieve a State Pension age of 66 for both men and women by April 2020, it is necessary to accelerate the rate of equalisation from 2016, so women will be on the same footing as men by November 2018.

16. The Bill implements the revised timetable. The effects of these measures are set out at Annex 1 and Annex 2.

Abolition of Payable Uprated Contracted-out Deduction Increments

17. Provision is made for the abolition of new awards of Payable Uprated Contracted-out Deduction Increments.

18. Where individuals contracted-out of the State Additional Pension between 1978 and 1997 delay taking their contracted-out benefits, they earn increments on them. These benefits are payable by the pension scheme but, because those increments are not fully indexed by pension schemes, the State adds small amounts to the individual's State Pension once in payment – this is the Payable Uprated Contracted-out Deduction Increment.

19. The intention, when contracting-out was first introduced in 1978, was to ensure that no one would be worse off than if they had stayed within the State Additional Pension Scheme.

20. Under existing legislation, contracting out on a defined contribution basis is to be abolished from 6 April 2012. No new awards of Payable Uprated Contracted-out Deduction Increments will be made to former members of those schemes. Retention of payments for members of defined benefit contracted-out schemes would create a two tier system between defined contribution and defined benefit schemes, with no consistency of policy.

21. The Bill abolishes the requirement to award this addition for those who have not started to receive both their deferred contracted-out pension

and their state pension before the specified date. Existing awards will not be affected. Removing this intricate payment in respect of new awards will assist the State Pension simplification process.

Consolidation of Additional State Pension

22. Existing legislation provides for the consolidation of the various elements of additional State Pension to provide a single value, enabling easier prediction of entitlement in retirement.

23. Originally, consolidation would have applied to people retiring from 2020 – the first group for whom State Pension age would have been equal. In view of the changes to State Pension age proposed in the Bill, the Government requires greater flexibility to ensure consolidation is introduced at the right time in line with the proposed reforms.

24. The Bill provides a power to set the start date for consolidation by Order.

Part 2: Automatic enrolment

25. Part 2 amends the regulatory framework relating to the duty on employers, introduced by the Pensions Act 2008, to automatically enrol eligible workers into a qualifying pension scheme:

    - A new “earnings trigger” for automatic enrolment will be introduced. A jobholder will not be eligible for automatic enrolment or, with some exceptions, re-enrolment unless they earn in excess of £7,475 per annum.

    - Provision is made for employers to defer the automatic enrolment date of a worker for up to three months by providing them with a notice. The waiting period may apply from one of three dates:

        - the employer’s staging date (the date from which an employer is required to comply with the automatic enrolment duty);
        - the worker’s first day of employment with that employer (where that falls after the employer’s staging date); or
        - the first day on which a worker is eligible for automatic enrolment whilst employed by that employer. This could be, for example, the day on which the worker turns 22 or their

earnings change, so that they become a jobholder who is eligible for automatic enrolment.

- The Secretary of State must consider in each year whether the amounts of the automatic enrolment earnings trigger and qualifying earnings band should be increased or decreased.

- Employers using money purchase occupational pension schemes, personal pension schemes or certain types of hybrid schemes will be able to certify that their scheme satisfies the quality requirements if it meets requirements prescribed in regulations.

- The Pensions Act 2008 allows employers using defined benefits and hybrid schemes to adjust gradually to the additional costs of the automatic enrolment reforms. The Bill provides that employers can choose whether or not to defer automatic enrolment until the end of a transitional period set out in regulations.

- Managers, as well as trustees, of occupational pension schemes will be able to modify the scheme to comply with the requirements for an automatic enrolment scheme or the requirements as to the payment of contributions.

- A trustee or manager who has received a fixed or escalating penalty for failure to comply with the employer duty provisions will not be able to take monies from scheme funds to pay the penalty.

Part 3 – Occupational Pension Schemes, the Pension Protection Fund and the Financial Assistance Scheme

26. Part 3 covers comparatively minor amendments regarding indexation and revaluation requirements for occupational pensions and payments from the Pension Protection Fund following the decision to use the Consumer Prices Index rather than the Retail Prices Index for up-rating purposes.

Indexation and Revaluation

- Schemes providing full uncapped revaluation of deferred members' preserved pensions may do so without reference to statutory revaluation requirements provided they maintain (in the opinion of the Secretary of State) the value of pensions by reference to the rise in the general level of prices.

- Schemes may continue to increase pensions in payment under scheme rules. Schemes will be able to increase by Retail Prices Index, the Consumer Prices Index or a combination of the two, depending on scheme rules.

- The Secretary of State is empowered to prescribe that (as a minimum) pension credit benefit (arising from a pension share on divorce etc.) paid by an occupational pension scheme must be increased by reference to the percentage increase in the general level of prices determined by the Secretary of State for the purpose of the statutory revaluation requirements.

- Reference to the Retail Prices Index in relation to the calculation of indexation increases for pension compensation paid by the Pension Protection Fund is replaced by reference to the rise in the general level of prices.

- Currently, Scheme members with cash balance benefits buying or receiving an annuity or being paid a scheme pension must be indexed to at least the lower of the Retail Prices Index or five per cent and accruals post 2005 must be indexed at the lower of Retail Prices Index or 2.5 per cent. The Bill removes this requirement but the amendment will not apply to pensions or annuities already in payment prior to the provisions coming into force.

Pension Protection Fund

- The Board of the Pension Protection Fund may, where it is able to do so, determine the funding position of an eligible pension scheme without obtaining a fresh actuarial valuation.

- A determination made by the Board in cases where it has decided that an actuarial valuation is not required will be reviewable.

- The requirement that an application for reconsideration must include a protected benefits quotation (a quote from an insurance company of the cost of purchasing annuities providing each scheme member with benefits equivalent to either the lower of the compensation which they would receive if their scheme transferred to the Pension Protection Fund or their scheme benefits) is removed.

- The requirement that an assessment period must last for a minimum of 12 months is removed. This will enable the Board to bring schemes within the Pension Protection Fund earlier.

- People will be able to postpone their pension compensation past their normal pension age.

Part 5 – Miscellaneous and general provisions

27. Part 5 makes a number of technical amendments to existing legislation, foe example, to:

    - enable the Secretary of State to make grants to pensions advisory bodies or those undertaking other specified functions in relation to pensions;

    - apply existing rules about serving documents and electronic working to the automatic enrolment requirements.

Annex 1

Changes to State Pension age equalisation timetable (women)

Date of Birth	Date state pension age reached under current timetable	State Pension age under current timetable (years/months)	Date state pension age reached under revised timetable	New State Pension age (years/ months)
6 Apr 1953 – 5 May 1953	6 May 2016	63.1 – 63.0	6 July 2016	63.3 – 63.2
6 May 1953 – 5 Jun 1953	6 July 2016	63.2 – 63.1	6 Nov 2016	63.6 – 63.5
6 Jun 1953 – 5 Jul 1953	6 Sept 2016	63.3 – 63.2	6 March 2017	63.9 – 63.8
6 Jul 1953 – 5 Aug 1953	6 Nov 2016	63.4 – 63.3	6 July 2017	64.0 – 63.11
6 Aug 1953 – 5 Sept 1953	6 January 2017	63.5 – 63.4	6 Nov 2017	64.3 – 64.2
6 Sept 1953 – 5 Oct 1953	6 March 2017	63.6 – 63.5	6 March 2018	64.6 – 64.5
6 Oct 1953 – 5 Nov 1953	6 May 2017	63.7 – 63.6	6 July 2018	64.9 – 64.8
6 Nov 1953 – 5 Dec 1953	6 July 2017	63.8 – 63.7	6 Nov 2018	65.0 – 64.11

Annex 2

Increase in State Pension age from 65 to 66 (men and women)

WOMEN				MEN			
Period within which birthday falls	**Date state pension age reached - current timetable**	**State pension age reached - revised timetable**	**New state pension age (years/ months)**	**Period within which birthday falls**	**state pension age - current timetable**	**Date state pension age reached - revised timetable**	**New state pension age (years/ months)**
6 Dec 1953– 5 Jan 1954	6 Sept 2017	6 Mar 2019	65.3– 65.2	6 Dec 1953– 5 Jan 1954	65	6 Mar 2019	65.2 – 65.3
6 Jan 1954– 5 Feb 1954	6 Nov 2017	6 Jul 2019	65.6–65.5	6 Jan 1954– 5 Feb 1954	65	6 Jul 2019	65.5 – 65.6
6 Feb 1954– 5 Mar 1954	6 Jan 2018	6 Nov 2019	65.9–65.8	6 Feb 1954– 5 Mar 1954	65	6 Nov 2019	65.8 – 65.9
6 Mar 1954– 5 Apr 1954	6 Mar 2018	6 Mar 2020	66.0-65.11	6 Mar 1954– 5 Apr 1954	65	6 Mar 2020	65.11 – 66.0
6 Apr 1954 – 5 May 1954	6 May 2018	6 Apr 2020 – 5 May 2020	66	6 Apr 1954 – 5 May 1954	65	6 Apr 2020– 5 May 2020	66
6 May1954– 5 Jun 1954	6 Jul 2018	6 May 2020 – 5 Jun 2020	66	6 May1954– 5 Jun1954	65	6 May2020– 5 Jun 2020	66
6 Jun1954 – 5 Jul 1954	6 Sept 2018	6 Jun 2020 – 5 Jul 2020	66	6 Jun1954 – 5 Jul 1954	65	6 Jun2020 – 5 Jul 2020	66
6 Jul1954 – 5 Aug 1954	6 Nov 2018	6 Jul 2020 – 5 Aug 2020	66	6 Jul 1954 – 5 Aug 1954	65	6 Jul 2020 – 5 Aug 2020	66
6 Aug1954 – 5 Sept 1954	6 Jan 2019	6 Aug 2020 – 5 Sept 2020	66	6 Aug1954 – 5 Sept 1954	65	6 Aug2020– 5 Sept 2020	66
6 Sept1954– 5 Oct 1954	6 Mar 2019	6 Sept 2020 – 5 Oct 2020	66	6 Sept1954– 5 Oct1954	65	6 Sept2020– 5 Oct 2020	66
6 Oct 1954 – 5 Nov 1954	6 May 2019	6 Oct 2020 – 5 Nov 2020	66	6 Oct 1954 – 5 Nov 1954	65	6 Oct 2020– 5 Nov 2020	66
6 Nov 1954– 5 Dec 1954	6 July 2019	6 Nov 2020 – 5 Dec 2020	66	6 Nov1954 – 5 Dec 1954	65	6 Nov2020– 5 Dec 2020	66
6 Dec 1954- 5 Jan 1955	6 Sept 2019	6 Dec 2020 – 5 Jan 2021	66	6 Dec 1954- 5 Jan 1955	65	6Dec 2020– 5 Jan 2021	66

6 Jan1955 – 5 Feb 1955	6 Nov 2019	6 Jan 2021 – 5 Feb 2021	66	6 Jan1955 – 5 Feb 1955	65	6 Jan 2021– 5 Feb 2021	66
6 Feb1955 – 5 Mar 1955	6 Jan 2020	6 Feb 2021 – 5 Mar 2021	66	6 Feb1955 – 5 Mar 1955	65	6 Feb2021– 5 Mar 2021	66
6 Mar1955 – 5 Apr 1955	6 Mar 2020	6 Mar 2021 – 5 Apr 2021	66	6 Mar1955 – 5 Apr 1955	65	6 Mar2021– 5 Apr 2021	66
6 Apr 1955 - 5 Apr 1959	65th birthday	66th birthday	66	6 Apr 1955 - 5 Apr 1959	65	66th birthday	66
6 Apr 1959 – 5 May 1959	6 May 2024	66th birthday	66	6 Apr 1959 – 5 May 1959	6May2024	66th birthday	66
6 May1959– 5 Jun 1959	6 Jul 2024	66th birthday	66	6 May1959– 5 Jun 1959	6 Jul 2024	66th birthday	66
6 Jun1959 – 5 Jul 1959	6 Sept 2024	66th birthday	66	6June1959– 5 Jul 1959	6Sept2024	66th birthday	66
6 Jul 1959 – 5 Aug 1959	6 Nov 2024	66th birthday	66	6 Jul 1959 – 5 Aug 1959	6Nov 2024	66th birthday	66
6 Aug1959 – 5 Sept 1959	6 Jan 2025	66th birthday	66	6 Aug1959 – 5 Sept 1959	6 Jan2025	66th birthday	66
6 Sept1959– 5 Oct 1959	6 Mar 2025	66th birthday	66	6 Sept1959– 5 Oct 1959	6 Mar2025	66th birthday	66
6 Oct 1959 – 5 Nov 1959	6 May 2025	66th birthday	66	6 Oct 1959 – 5 Nov 1959	6May2025	66th birthday	66
6 Nov1959 – 5 Dec 1959	6 July 2025	66th birthday	66	6 Nov 1959– 5 Dec 1959	6 Jul 2025	66th birthday	66
6 Dec 1959– 5 Jan 1960	6 Sept 2025	66th birthday	66	6 Dec 1959– 5 Jan 1960	6Sept2025	66th birthday	66
6 Jan 1960– 5 Feb 1960	6 Nov 2025	66th birthday	66	6 Jan 1960– 5 Feb 1960	6 Nov2025	66th birthday	66
6 Feb 1960– 5 Mar 1960	6 Jan 2026	66th birthday	66	6 Feb 1960– 5 Mar 1960	6Jan 2026	66th birthday	66
6 Mar 1960– 5 Apr 1960	6 Mar 2026	66th birthday	66	6 Mar 1960– 5 Apr 1960	6Mar 2026	66th birthday	66
6 Apr 1960 – 5 Apr 1968	66th birthday	66th birthday	66	6 Apr 1960 – 5 Apr 1968	66thbirthday	66th birthday	66