Northern Ireland Assembly

COMMITTEE FOR
SOCIAL DEVELOPMENT

OFFICIAL REPORT
(Hansard)

Pensions Bill: Legislative Consent Motion

10 March 2011

NORTHERN IRELAND ASSEMBLY

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SOCIAL DEVELOPMENT

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Members present for all or part of the proceedings:
Mr Simon Hamilton (Chairperson)
Ms Carál Ní Chuilín (Deputy Chairperson)
Mr Sydney Anderson
Mrs Mary Bradley
Mr Mickey Brady
Mr Tommy Gallagher
Ms Anna Lo
Mr Fra McCann

Witnesses:

Mr Seamus Cassidy	)
Mr Gerry McCann	) Department for Social Development
Ms Anne McCleary	)

The Chairperson (Mr Hamilton):

We will now receive a briefing on the legislative consent motion for the Pensions Bill. The Bill was introduced at Westminster on 12 January and contains provisions that deal with a number of devolved issues. Some of those issues are the subject of a legislative consent motion, and the Committee's view on the motion is being sought. Joining us from the Department are Anne McCleary, Gerry McCann and Seamus Cassidy. You are all very welcome.

Ms Anne McCleary (Department for Social Development):

Thank you. You will have seen the written briefing that we submitted on the Pensions Bill and the legislative consent motion in particular. Today, we are specifically seeking support from the Committee for an extension to Northern Ireland of two provisions in the current Westminster Pensions Bill and for bringing forward a legislative consent motion to the Assembly. If you are content, I prefer to briefly run through the main aspects of the Bill before addressing the legislative consent motion.

The Chairperson:

Ok, go ahead.

Ms McCleary:

I stress that any corresponding Bill for Northern Ireland would be a matter for the next Assembly mandate and would not be brought forward until a full equality impact assessment had been completed and ministerial and Executive approval given. Again, to be absolutely clear: the Bill that we are talking about is a Westminster Bill, but we want to talk to you about a legislative consent motion that is attached to that Bill. That does not mean that that Bill will automatically be replicated in Northern Ireland. We are not at a stage where we can look at it yet.

The Westminster Pensions Bill contains proposals that relate to changes to the state pension age for men and women; automatic enrolment into workplace pensions; occupational pensions schemes and pension compensation, which includes amendments to legislation that governs the financial assistance scheme (FAS); and judicial pensions.

Under the existing legislation, the state pension age for women is scheduled to equalise with that for men, which is 65, by 2020. That will then increase to 66 for men and women by April 2026, to 67 by April 2036 and to 68 by April 2046. The Bill provides for acceleration of the equalisation process and the increase of the pension age to 66.

Mr S Anderson:

Are you adding it up, Simon?

The Chairperson:
Sydney is aware that I am jotting down when I will be retiring. *[Laughter.]*

Ms McCleary:
I had the misfortune of being asked when I am retiring on national radio. The person who asked me went on to work out precisely what my age was based on that, which was particularly scary.

The increase to age 66 will be brought forward to April 2020, and, as a consequence, women's state pension age will be equalised at 65 by November 2018 rather than April 2020. The equalisation is being brought forward by around a year and a half. That change followed a review of the timetable for increasing the state pension age, the response to which was published in November 2010.

The second element of this is automatic enrolment. Millions of people in the UK are not saving for retirement. The Pensions Act 2008 introduced a requirement for all employers to automatically enrol eligible employees into a workplace pension scheme by 2012. An independent review was announced in June 2010 to examine the scope of the automatic enrolment policy in light of changes that had taken place. For example, the credit crunch in the financial markets, the economic downturn and the fiscal deficit. Secondly, there is the proposed review of the state pension age and, thirdly, further increases in life expectancy and the decline in private sector pension coverage.

The Westminster Bill contains a number of provisions that are designed to support the introduction of automatic enrolment by easing the burdens that employers will face in complying with the legislation while maintaining the key aim of ensuring that low to moderate earners are able to save for retirement.

The third element is occupational pension schemes and pension compensation. The Bill also contains comparatively minor amendments relating to indexation and revaluation requirements for occupational pensions and payments from the pension protection fund, following the decision to use the consumer price index rather than the retail price index for operating purposes. Those are the four elements.

Before I move on to the legislative consent motion, do any of you want to raise any questions?

Mr Brady:

I have had two cases on the equalising of ages. A woman who turned 60 on 14 December 2010 will not now receive her retirement pension until 6 September 2011, so she loses nine months of pension. If she or a partner were receiving benefit, that would be taken into account, but a woman who wanted to continue to work would lose nine months of contributory benefit, which is money that she had paid into. We are being told that that is because of the equalisation. It discriminates against women at this point in time.

Ms McCleary:

When genders are treated differently, equalising that takes —

Mr Brady:

I know what you are saying, but, with respect, she is losing nine months of contributory benefit that she has paid for. That will not be paid back to her.

Mr Gerry McCann (Department for Social Development):

No, it will not.

Mr Brady:

She loses that. What rationale is there to explain to anybody that a woman who has worked loses that benefit? She is being told that that is because the age at which the pension is paid is being equalised with that of men, but that is no benefit to her. I know of another woman who lost out on six and a half or seven months.

Mr Seamus Cassidy (Department for Social Development):

The equalisation is to comply with European legislation.

Mr Brady:

I understand that. I am reasonably au fait with the logistics of it. It is about trying to explain that to somebody face to face.

Mr G McCann:

The point is that we all pay into the system to help other people. She loses and some other people gain.

Ms McCleary:

That may not how everybody sees it.

Mr Brady:

That argument will not work with her.

Mr G McCann:

I take your point about the woman who has lost money because I would feel that way myself. It has been worked out as part of an overall scheme to which we all pitch in.

Ms McCleary:

That is the rationale behind it, but it is not going to cut any ice.

Mr Brady:

I am sure that she would love to be magnanimous about it, but, unfortunately —

Ms McCleary:

I do not think that there is any answer.

Mr G McCann:

I am just explaining the rationale, but I take your point that people who lose out will feel aggrieved.

Mrs M Bradley:

Quite a few people are in that position, Mickey, you are quite right. They feel very sore about it.

Ms McCleary:

The bottom line is that the date at which they are eligible for their pension has been put back with very little notice.

Mrs M Bradley:

That is correct.

Mr Brady:

It is the old 'Animal Farm' argument: we are all equal, but some are more equal than others.

Mr S Anderson:

If they are a carer, Mickey, they can continue getting their carer's allowance for nine months. *[Laughter.]*

Mr Brady:

We will see what we can do.

Ms Lo:

Men could equally say that they are being discriminated against for five years more than women. You have to start somewhere.

Mrs M Bradley:

Anna, you are not supposed to say things like that. *[Laughter.]*

Ms Lo:

I am very fair.

Mr Brady:

The point is that men have not lost out on their pensions.

Mrs M Bradley:

They never lose out on anything.

Mr G McCann:

Men had to pay for longer to get that pension. Men had to work for 44 years to get a full pension. Women have to work for only 39 years. It is swings and roundabouts.

Mr Brady:

I will pass on the message that she should be thankful that we have been paying for her for all these years.

Mr G McCann:

We do understand her point. I take on board that each person who finds that they are out of pocket will be hurt and aggrieved by that. However, there is not very much that we can do if we are going to get to the point at which the two ages are equal.

Mr Brady:

She is more than hurt and aggrieved; she is out of pocket.

The Chairperson:

Mickey, just tell her that we are all in this together.

Mr Brady:

And that we can make a difference if we really try hard enough.

The Chairperson:

That is the Bill.

Ms McCleary:

Yes, that is the Bill.

We will look now at the provisions of the Bill that are the subject of the legislative consent motion. As I briefly explained before, the Westminster Bill contains provisions relating to the financial assistance scheme and judicial pensions, which require the approval of the Assembly before they can extend to Northern Ireland. That is because, although pensions are a transferred matter, the financial assistance scheme operates on a UK-wide basis. Although the majority of judicial offices are excepted matters, therefore outside the jurisdiction of Northern Ireland, a small number do fall within the legislative competence of the Assembly.

I will look first at the financial assistance scheme. The Committee will know that the financial assistance scheme provides important help to people who have lost out on their pension where their occupational pension scheme started to wind up after 1 January 1997 and before 6 April 2005, which was when the pension protection fund came into operation. The three criteria that apply here are that the scheme was underfunded, the employer is insolvent or the employer no longer exists. The scheme, which was set up under Westminster legislation, operates on a UK-wide basis and is the responsibility of the Department for Work and Pensions, for whom you now have a friendly face.

The Bill proposes two changes to the current law. Both changes are technical and do not alter how the scheme operates, nor do they affect its eligibility conditions.

The first change amends an existing reference in the legislation providing for the property rights and liabilities of pensions schemes that have been admitted to the financial assistance scheme to be transferred to the FAS manager. Since 2009, the scheme manager has been the board of the pension protection fund. The proposed change would mean that the transfer would be to a prescribed person rather than the scheme manager. The prescribed person would be the Secretary of State for Work and Pensions. That clarifies the existing policy intention, which is that assets from those schemes admitted to the FAS should be transferred to the Government to part fund payments made by them.

The second change would enable the Secretary of State for Work and Pensions to legislate for ill-health payments together with ordinary payments made under the scheme. Under current legislation, members who suffer ill health can access special ill-health payments before their normal retirement age. Those payments are actuarially reduced to reflect the fact that they are paid for longer, and they have to be legislated for separately. That adds significant complexity and duplication to the FAS regulations. The proposed amendments would reduce that complexity. Neither amendment would affect members' entitlement or the amount that they receive under the scheme.

The second major change is to do with judicial pensions. The Bill also amends existing UK-wide legislation relating to judicial pensions. In an interim report published in October 2010, the Independent Public Service Pensions Commission recommended that the most effective way to make short-term savings on public sector pensions is to increase member contributions. We all heard about that in the news today.

The proposed amendment will give the Lord Chancellor the power to make regulations to allow contributions to be taken towards the cost of providing personal pensions to members of the main UK-wide judicial pensions scheme. The level of contributions has not yet been set. We understand that the rate will be the subject of consultation by the Lord Chancellor. Under the proposals, contributions will be taken only while an office-holder is accruing pension benefits, that is, where they have not already accrued rights to a full pension.

As I pointed out earlier, although the appointment of judges is normally an excepted matter and the responsibility of the Lord Chancellor, a small number of office-holders are appointed under Northern Ireland legislation and fall within the transferred field. The Northern Ireland posts are the Comptroller and Auditor General for Northern Ireland; the Commissioner for Complaints/Assembly Ombudsman; the president of the appeal tribunals; a member of an appeal tribunal; the president or vice-president of an employment tribunal and the Fair Employment Tribunal; and the chairmen of industrial tribunals or the Fair Employment Tribunal.

We understand that currently all the post-holders, apart from the Comptroller and Auditor General and the ombudsman, are members of the UK judicial scheme. Responsibility for those offices falls to a number of Departments, including the Department for Social Development. We have consulted with the Department for Employment and Learning, the Office of the First Minister and deputy First Minister and the Assembly's Audit Committee, and they are content with the proposal. I have recently been advised by officials at the Department of Justice that responsibility for the appointment of the president and members of the Lands Tribunal for Northern Ireland has now been devolved to the Assembly. Those posts should also be covered by the motion. The agreement of the Minister of Finance and Personnel has been sought as a matter of urgency.

In conclusion, we request that the Committee support the extension to Northern Ireland of the provisions of the Westminster Pensions Bill relating to the financial assistance scheme and judicial pensions, and the bringing forward of a legislative consent motion to the Assembly.

Thank you, Mr Chairman.

The Chairperson:

Thank you, Anne. Have Members any comments? It seems technical and straightforward enough. Are members content to support the legislative consent motion, in so far as it refers to the transference of rights and properties and ill-health payments made under the financial assistance scheme and judicial pensions scheme?

Members indicated assent.