

SCOTTISH PARLIAMENTARY PENSIONS BILL COMMITTEE

Wednesday 3 December 2008

Session 3

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SCOTTISH PARLIAMENTARY PENSIONS BILL COMMITTEE

1st Meeting 2008, Session 3

CONVENER

*Keith Brown (Ochil) (SNP)

DEPUTY CONVENER

*David Stewart (Highlands and Islands) (Lab)

COMMITTEE MEMBERS

*Bill Aitken (Glasgow) (Con)

*Nicol Stephen (Aberdeen South) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Alasdair Morgan (South of Scotland) (SNP)

CLERK TO THE COMMITTEE

Sarah Robertson

LOCATION

Committee Room 4

Scottish Parliament

Scottish Parliamentary Pensions Bill Committee

Wednesday 3 December 2008

[THE OLDEST COMMITTEE MEMBER *opened the meeting at 10:30*]

Interests

Bill Aitken (Oldest Committee Member): Good morning, ladies and gentlemen. I welcome everyone to the first meeting of the Scottish Parliamentary Pensions Bill Committee in the third session of the Scottish Parliament. It is with some chagrin that I discover that I am the oldest committee member. As such, I am required to preside over the initial part of the meeting. I ask all present to ensure that mobile phones and pagers are switched off.

Agenda item 1 is declarations of interest. Members will have received a note on the process. In accordance with section 3 of the code of conduct, I invite members to declare any interests relevant to the committee's remit. I begin with my own declaration: on the basis that the potential benefits of being a member of the pension fund are not declarable, I have no declarations to make.

Keith Brown (Ochil) (SNP): I have no interests to declare other than what is in my entry in the register of members' interests.

David Stewart (Highlands and Islands) (Lab): I have no further interests to declare at this point.

Nicol Stephen (Aberdeen South) (LD): I am the same: I have nothing to declare other than what is in my entry in the register of members' interests.

Bill Aitken: Thank you.

Convener

10:31

Bill Aitken: Item 2 is the choice of committee convener. Members will have before them a note from the clerk setting out the procedure for selecting a convener. The Parliament has agreed that only members of the Scottish National Party are eligible to be committee convener. That being the case, I seek nominations for the position of convener.

David Stewart: I nominate Keith Brown.

Bill Aitken: There are no other nominations.

Keith Brown was chosen as convener.

Deputy Convener

10:32

The Convener (Keith Brown): I thank the committee for appointing me as convener.

Item 3 is the choice of deputy convener. Members will have before them a note from the clerk setting out the procedure for selecting a deputy convener, which is similar to that used to select the convener. The Parliament has agreed that only members of the Labour Party are eligible to be deputy convener. That being the case, I seek nominations for the position of deputy convener.

Bill Aitken (Glasgow) (Con): I nominate David Stewart.

The Convener: There are no other nominations.

David Stewart was chosen as deputy convener.

Scottish Parliamentary Pensions Bill: Stage 2

10:33

The Convener: The next item of business is consideration of the Scottish Parliamentary Pensions Bill at stage 2. The committee has been established specifically to consider the bill at stage 2.

I will highlight some procedural points. Members should have the bill, the marshalled list of amendments and the groupings. Amendments have been grouped to facilitate debate but, as members will know, the marshalled list dictates the order in which amendments will be called and moved. All amendments will be called in turn from the marshalled list and disposed of in that order. We cannot move backwards in the marshalled list.

There will be one debate on each group of amendments. I will call the member who is to move the first amendment in each group, and he should speak to and move the amendment. I will then call other members, who should indicate their wish to speak in the normal way. After the debate on a group of amendments, I will ask whether the member who moved the first amendment in the group wants to press it to a decision. If he does not, he may seek the committee's agreement to withdraw the amendment.

If the amendment is not withdrawn, I will put the question on the amendment and, if any member disagrees, we will proceed to a division by a show of hands. I have been asked to remind members that it is important that they keep their hands raised until the clerk has fully recorded the vote, and I also remind them that only committee members may vote. If a member does not wish to move their amendment, they should simply say "Not moved" when it is called.

The committee is required to decide whether to agree to each section of, or schedule to, the bill. Before I put the question on any section or schedule, I will allow a short general debate, which may be useful for discussing matters that have not been raised in amendments. However, members will be aware that the only permitted way of opposing agreement to a section is by lodging an amendment to leave it out.

In case there is a tied vote, I advise members that the convener has a casting vote and that the Conveners Group has taken the view that there should be no protocol. Therefore, whereas the Presiding Officer votes with the status quo, that is not the rule for conveners. The Conveners Group has taken the view that the committee convener should use his or her discretion. I hope that we will

not have to deal with that situation, but I wanted to make the point clear from the start in case it arises.

Section 1 agreed to.

Schedule 1

SCOTTISH PARLIAMENTARY PENSION SCHEME

The Convener: Amendment 1, in the name of Alasdair Morgan, is in a group on its own.

Alasdair Morgan (South of Scotland) (SNP): I congratulate you and your deputy on your respective elections, convener.

The bill prevents any trustee who is a member of the pension scheme from receiving remuneration and allowances. The effect of the amendment is to extend that condition to cover pension credit members from similarly receiving remuneration or allowances. Pension credit members are entitled to stand-alone pension rights within the scheme due to pension-sharing orders made on divorce from, or the dissolution of a civil partnership with, a pension scheme member. The effect of the amendment is to ensure that anyone who is to benefit financially from the scheme does not receive financial benefit as a trustee.

I move amendment 1.

David Stewart: The proposed change is straightforward and sensible. It is not controversial in any way and keeps us in line with pension policy in general throughout the United Kingdom, so I support the amendment.

Nicol Stephen: I support it too.

Bill Aitken: I concur.

Amendment 1 agreed to.

The Convener: Amendment 2, in the name of Alasdair Morgan, is grouped with amendments 3 to 5.

Alasdair Morgan: The purpose of amendments 2 to 5 is to clarify the benefits that would be payable in the event of the death of a participating member who had previously received a pension from the fund as a scheme pensioner. Such a scenario could arise if a scheme pensioner was re-elected as an MSP or appointed to be an office-holder.

By amending the rule 109 definition of "deferred pensioner", amendment 5 makes it clear that the definition does not include a scheme pensioner who rejoins as a participating member or a person who is re-elected but opts to remain as a scheme pensioner. An individual in either category does not become a deferred pensioner. As long as an individual in either category remains an MSP or office-holder, their pension is suspended under rule 41.

A person who is re-elected but does not opt out of the scheme becomes a participating member for future service while remaining a scheme pensioner. Amendments 2 to 4 clarify the benefits that become payable in the event that such a member dies while a participating member. To calculate a surviving partner or child's entitlement to pension, it is first necessary to determine what pension would have been due to the deceased had they survived. The amount of pension that would have been payable depends on what type of scheme member the deceased was at the time of their death.

Amendment 3 inserts into rule 56 detail of how scheme pension entitlement is to be calculated if a pension has been suspended under rule 41(1). In such cases, the deceased is to be treated as if they had become a scheme pensioner again immediately before their death. The amendment makes it clear that such a person can also be a participating member. The effect is that the previous service and new accumulated service after reparticipation are treated as two separate entitlements, albeit that, once calculated, they are paid as a single amount to recipients.

Rule 59 provides a partner time to adjust financially to the loss of their partner's income. The rule provides for the enhancement of a partner's pension for three months, following the death of a participating member or pensioner, to the level of income that the member was receiving at that time. As a consequence of amendment 4, the enhancement of a partner's pension for the three-month period in respect of a participating member who was a scheme pensioner but whose pension had been suspended under rule 41(1) will be as if they had been a participating member. In such cases, under rule 59(1), the amount of a partner's pension payable will in effect be enhanced to the level of salary that the deceased had been receiving.

Amendment 2 is designed to protect the fund while placing all participating members on an equal footing. It seeks to ensure that the maximum payment from the fund, in the event of any participating member dying, is the greater of four times their salary or their scheme member's contributions with interest.

Rule 65 provides that the fund trustees may pay a tax-free lump sum on the death of any participating member to the deceased's nominee or personal representatives. That lump sum is to be four times the participating member's annual salary or their scheme member's contributions, whichever is the greater. A scheme pensioner who has received benefits from the scheme and then rejoins the scheme on their re-election as an MSP will also be entitled to that benefit. Although such a person has their existing pension suspended on

re-election, they could already have received a considerable amount in pension payments during earlier retirement as well as having commuted part of their pension on retirement to a lump sum. In addition, when the person dies and the earlier retirement was less than five years, an additional sum is paid to their personal representatives equal to the balance of the unpaid pension that would have been paid during the first five years of retirement. That is the five-year guarantee of payment of pension set out in part L of the bill.

Limited provision for those cases is already made in the current version of the bill at rule 41(2). That provision has the effect of reducing death-in-service benefit to take account of pension already paid. It does not, however, deal with retirement lump sums or the five-year guarantee. The effect of amendment 2 is to reduce the death-in-service payment further in those cases by the value of those additional benefits.

That means that the survivors of participating and reparticipating members are all treated equally by the scheme and payments that are made to members who retire and then rejoin the scheme are not enhanced beyond those that are available to other members.

I move amendment 2.

Amendment 2 agreed to.

Amendments 3 to 5 moved—[Alasdair Morgan]—and agreed to.

Schedule 1, as amended, agreed to.

Schedule 3

TRANSITIONAL PROVISIONS AND SAVINGS

The Convener: Amendment 6, in the name of Alasdair Morgan, is in a group on its own.

Alasdair Morgan: Amendment 6 is a technical amendment to make clear that the Scottish parliamentary pension scheme is continued by the bill. Section 1(1) makes provision for the continuation of the scheme. The amendment, at paragraph 2 of schedule 3, is a further savings provision, which puts the scheme's continuation as a legal entity beyond any doubt after the Scotland Act 1998 (Transitory and Transitional Provisions) (Scottish Parliamentary Pension Scheme) Order 1999 ceases to have effect on royal assent.

I move amendment 6.

Amendment 6 agreed to.

10:45

The Convener: Amendment 7, in the name of Alasdair Morgan, is grouped with amendments 8 and 9.

Alasdair Morgan: These amendments link into restrictions imposed by the Finance Act 2004, which prevent pension scheme members over the age of 75 from commuting part of their pension to a tax-free lump sum. The new scheme rules allow participating members approaching 75 who would be entitled to a pension but for the fact that they are a serving MSP or office-holder, to commute part of their pension entitlement. Once such a person reaches 75, they can no longer avail themselves of that benefit.

Participating members in the same position cannot, under the current rules, commute pension in that way. Amendment 7 allows current participating members who reach 75 after royal assent but before the new rules day to have a similar right to commute part of their pension as persons who attain 75 after that date. As with the provision in rule 44 of the new rules, such a person who opts to crystallize their benefits in that way obtains a tax-free commuted sum and becomes a scheme pensioner. However, their pension is reduced to zero until they leave office.

Amendments 8 and 9 are consequential amendments that bring the transitional provision that is set out in amendment 7 and the transitional provision at paragraph 1 of schedule 3, which provides an interpretation of words and phrases used throughout the schedule, into force immediately on royal assent.

I move amendment 7.

Amendment 7 agreed to.

Schedule 3, as amended, agreed to.

Section 2 agreed to.

Schedule 2 agreed to.

Sections 3 and 4 agreed to.

Section 5—Commencement

Amendments 8 and 9 moved—[Alasdair Morgan]—and agreed to.

Section 5, as amended, agreed to.

Section 6 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank the clerks for all their work. I also thank Alasdair Morgan and the Scottish Parliamentary Pension Scheme Committee for the previous work that has been done. I thank everyone else for their participation today.

Meeting closed at 10:47.

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