

6. CONSIDERATION OF CLAUSES

6.1. Public Sector Pensions (Amendment) Bill 2019 – Clauses considered

Mr Thomas to move.

The Speaker: We turn to Consideration of Clauses of the Public Sector Pensions (Amendment) Bill 2019, and I call on the Hon. Member for Douglas Central, Mr Thomas to move.

Mr Thomas: Thank you, Mr Speaker.

I would like to move clauses 1 and 2 together as they are introductory; however, I am happy to have them voted on separately, Mr Speaker, with your permission. (**The Speaker:** Agreed.)

Clause 1 gives the short title of the resulting Public Sector Pensions (Amendment) Act 2019 and would cover those pension schemes made under the Public Sector Pensions Act 2011.

Clause 2 sets out when the Bill should come into operation when one or more orders are made by the Public Sector Pensions Authority. The power includes provision to make consequential, incidental, supplemental and transitional provisions in connection with its commencement.

I beg to move that clause 1 and clause 2 stand part of the Bill.

The Speaker: Mr Cannan.

Mr Cannan: I beg to second.

The Speaker: I put the question that clauses 1 and 2 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Clause 3 confirms that the Bill will amend the Public Sector Pensions Act 2011 and the amendments are set out in the following clauses.

I beg to move that clause 3 stand part of the Bill.

The Speaker: Mr Cannan.

Mr Cannan: I beg to second.

The Speaker: I put the question that clause 3 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Clause 4 repeals section 3(2)(a) of the Public Sector Pensions Act 2011. Section 3 sets out the specific public servants to which the Public Sector Pensions Act 2011 applies.

The amending clause as drafted revokes the section that states that the consent:

... [of the] (a) judges of the High Court (within the meaning of section 3(1) of the High Court Act 1991);
(b) the Attorney General and Her Majesty's Solicitor General for the Island;

– is required for the making of a superannuation scheme in respect of those persons. With the repeal of this provision such consent will not be required.

Mr Speaker, Hon. Members, Mr Harmer has tabled an amendment the effect of which is to insert a saving clause for the current members of the judiciary identified in the High Court Act 1991 and revoke the current clause for those individuals who are appointed to such posts once the Bill has been enacted.

Mr Speaker, I would like to confirm that I propose to support the amendment.

The Speaker: Mr Cannan.

Mr Cannan: I beg to second and reserve my remarks.

The Speaker: Mr Harmer.

Mr Harmer: Mr Speaker, this amendment seeks to repeal section 3(2)(a) of the Public Sector Pensions Act 2011 as set out in the current draft Bill; but in addition also inserts a new saving provision in respect of existing members of judicial schemes. This amendment seeks to preserve this section of the Act which sets out that the consent of the judges of the High Court, within the meaning of section 3(1) of the High Court Act 1991, the Attorney General and the Solicitor General for the Island is required, for the making of the superannuation scheme in respect of those persons. However, this amendment only applies to those who currently hold those positions.

With the repeal of provision 3(2)(a) such consent will not be required in respect of those individuals who are subsequently appointed to those positions in future. Therefore, this amendment inserts a saving provision in respect of those individuals who are appointed as a Judge of the High Court, within the meaning of section 3(1) of the High Court Act 1991, the Attorney General or the Solicitor General for the Island immediately before repeal of section 3(2)(a), and therefore their consent will still be required to amend their pension arrangements.

I beg to move the amendment to clause 4.

For page 8, lines 1-3 (the existing clause 4) substitute the following new clause —

«NC1 Consent to making schemes: section 3 amended and section 3A inserted

(1) Section 3(2)(a) (application) is repealed.

(2) After section 3 insert —

«3A Saving provision for existing members of judicial schemes

Despite the repeal of section 3(2)(a) (which required the consent of a person mentioned in section 3(1)(a) or (b) for schemes), the consent of a person mentioned in section 3(1)(a) or (b) (as appropriate) is required to amend a scheme where —

(a) the scheme was in existence immediately before the repeal of section 3(2)(a);

(b) at that time the person was a member of the scheme; and

(c) the amendment would adversely affect the rights of the person in question under the scheme.»».

The Speaker: Mr Ashford.

Mr Ashford: I beg to second and reserve my remarks, Mr Speaker.

The Speaker: Whilst there has been no debate, would Mr Thomas care to reply to the amendment?

Mr Thomas: As I said, I support the amendment, Mr Speaker and Hon. Members.

It is important that the will of the House of Keys is established in respect of this important matter; then this important matter can go to the Legislative Council and the Bill can make progress to becoming an Act. That will enable us to put in place the judicial scheme, as

negotiated in the last few years, to bring this matter to a close and make a substantial contribution to public sector pension reform; but also, and absolutely fundamentally, respect the independence of the judiciary which is now enshrined in statute in this Island.

And quite importantly – very importantly, of absolutely paramount importance – is judicial independence in this.

The Speaker: I put first the amendment in the name of Mr Harmer. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

I put forward clause 4, as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Clause 5 amends section 4 of the Public Sector Pensions Act 2011. Section 4 provides the definitions of a number of the terms used within the Public Sector Pensions Act 2011.

Clause 5 amends section 4 to clarify the definition of ‘scheme’ to include superannuation provisions originally made by order or regulations before the Public Sector Pensions Act 2011 was in operation – such as Police Pension Regulations or Teachers’ Superannuation Order, which are treated as a scheme validly made under the 2011 Act.

This amendment enables the PSPA to make amending regulations and orders as well as schemes.

I beg to move that clause 5 stand part of the Bill.

The Speaker: Mr Cannan.

Mr Cannan: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 5 stand part of the Bill.

Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Clause 6 amends section 6 of the Public Sector Pensions Act 2011.

Section 6 sets out the specific functions of the new Public Sector Pensions Authority. The key roles are to manage, administer and maintain Public Sector Pension Schemes for which it is responsible, and so in accordance with the legislation that underpins those schemes.

Section 6(1)(c) sets out that the final decision on the approval of new or amending of existing schemes lies with Tynwald. However, it is considered that section 6(1)(c) is now superfluous given that the procedure for the making of the schemes’ orders and regulations is set out in detail in section 15 of the Public Sector Pensions Act 2011.

I am aware that clause 7 seeks to amend section 15 of the Act. However, whether or not clause 7 is approved, the omission of section 6(1)(c) is still considered to be appropriate.

Clause 6, firstly, omits section 6(1)(c). Clause 6 also inserts into section 6 of the Public Sector Pensions Act 2011, a new subsection (1A) and ties in with clause 5. This amendment clarifies that the Public Sector Pensions Authority is able to amend existing schemes which are treated as schemes made under the Public Sector Pensions Act 2011, but were originally made by orders or regulations, and therefore enables the PSPA to make amending orders or regulations rather than schemes.

I beg to move that clause 6 stand part of the Bill.

The Speaker: Mr Cannan.

Mr Cannan: Beg to second.

The Speaker: I put the question that clause 6 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Clause 7 substitutes section 15 of the Public Sector Pensions Act 2011 with a revised section 15.

Section 15 of the Public Sector Pensions Act 2011 enables the Public Sector Pensions Authority to make regulations that enable the introduction or application of a new scheme or an amendment to the current scheme. It sets out the actions required to be carried out in relation to schemes or regulations made under the Act, in particular the requirement that schemes should be laid before Tynwald; but if they are not approved they shall cease to have effect.

Clause 7 revises section 15 to provide a Tynwald procedure which is dependent upon the nature of the amendment with new schemes, orders or regulations; and those amendments that introduce substantial changes to the benefits and structures of schemes made under the Act being subject to the affirmative procedure. However, those amendments that are considered to be administrative in nature would fall under the negative procedure.

I would like to assure Hon. Members that this amendment is not seeking to put in place a procedure that can be utilised to introduce any form of change by stealth, as was discussed in the helpful debate at the Second Reading. This amendment is seeking to reduce the burden upon Tynwald time in respect of changes to schemes which are purely administrative in nature.

I beg to move that clause 7 stand part of the Bill.

The Speaker: Mr Cannan.

Mr Cannan: I beg to second.

The Speaker: I put the question that clause 7 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that concludes the consideration of the clauses of the Public Sector Pensions (Amendment) Bill 2019 and indeed the business of the House today. I commend you on your efficiency.

The House then stands adjourned until 10 o'clock on 12th November in our own Chamber.

The House adjourned at 10.53 a.m.