

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

Public Bill Committee

## PENSIONS (SPECIAL RULES FOR END OF LIFE) BILL

*Wednesday 24 April 2024*

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CLAUSES 1 to 3 agreed to.  
Bill to be reported, without amendment.

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**Sunday 28 April 2024**

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**The Committee consisted of the following Members:**

*Chair:* DAME SIOBHAIN McDONAGH

Antoniazzi, Tonia ( <i>Gower</i> ) (Lab)	† Maynard, Paul ( <i>Parliamentary Under-Secretary of State for Work and Pensions</i> )
† Blackman, Bob ( <i>Harrow East</i> ) (Con)	Mills, Nigel ( <i>Amber Valley</i> ) (Con)
† Coffey, Dr Thérèse ( <i>Suffolk Coastal</i> ) (Con)	† Rees, Christina ( <i>Neath</i> ) (Lab/Co-op)
Elmore, Chris ( <i>Ogmore</i> ) (Lab)	† Robertson, Mr Laurence ( <i>Tewkesbury</i> ) (Con)
Gardiner, Barry ( <i>Brent North</i> ) (Lab)	Seely, Bob ( <i>Isle of Wight</i> ) (Con)
† Gray, James ( <i>North Wiltshire</i> ) (Con)	† Wheeler, Mrs Heather ( <i>South Derbyshire</i> ) (Con)
Hodge, Dame Margaret ( <i>Barking</i> ) (Lab)	† Wild, James ( <i>North West Norfolk</i> ) (Con)
† Jardine, Christine ( <i>Edinburgh West</i> ) (LD)	Liam Laurence Smyth, <i>Committee Clerk</i>
† Knight, Sir Greg ( <i>East Yorkshire</i> ) (Con)	† <b>attended the Committee</b>
† Lake, Ben ( <i>Ceredigion</i> ) (PC)	

# Public Bill Committee

Wednesday 24 April 2022

[DAME SIOBHAIN McDONAGH *in the Chair*]

## Pensions (Special Rules for End of Life) Bill

10 am

**The Chair:** Before we begin, I have some killjoy preliminary reminders for the Committee. Please switch electronic devices to silent. No food or drinks are permitted during sittings of the Committee, except the water provided. *Hansard* colleagues will be grateful if Members email their speaking notes to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk).

On to business, my selection and grouping list for today's sitting is available online and in the room. No amendments have been tabled. We will have a single debate on all three clauses of the Bill.

### Clause 1

CHANGES TO PERIODS OF LIFE EXPECTANCY

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

**The Chair:** With this it will be convenient to consider clauses 2 and 3 stand part.

**Mr Laurence Robertson** (Tewkesbury) (Con): It is a pleasure to serve under your chairmanship, Dame Siobhain. I thank you, the Minister and all Committee members for attending. I also thank the Department for Work and Pensions legislative team, who have been a great asset and a source of useful assistance throughout the process. I thank the Opposition for their support and my hard-working staff for their efforts.

As I said on Second Reading, the Bill is small and narrow in focus, consisting of just the three clauses. It seeks to amend existing legislation that covers the definition of terminal illness for the Pension Protection Fund and the financial assistance scheme, which is currently a life expectancy of only six months. We seek to increase that definition to 12 months. The extension would allow people with a terminal illness to receive terminal illness payments when they are likely to have 12 months or less to live. Such payments are a one-off lump sum from the PPF scheme or an early payment from the FAS.

I am sure we would all agree that when someone receives the devastating news that they have a terminal illness, they should receive any and all financial help possible during their final days. The constant advances in medical science—treatments, drugs and palliative care—make this Bill that much more important, because things are rather difficult to predict. This extends to the pension schemes as well. Most private pension schemes already provide cover in the form of serious ill health payments.

As will be explained, the Government passed legislation two years ago to ensure the same outcome for individuals receiving certain social security benefits such as universal credit, employment and support allowance, and personal independence payments. I came to understand, however, that two aspects of pensions legislation lacked updated

coverage. That legislation relates to the Pension Protection Fund and the financial assistance scheme—the focus of the Bill—which retained the six-months definition. The Bill seeks to rectify that.

In case any right hon. or hon. Members present in Committee were not at the Second Reading debate, I shall explain briefly what exactly the PPF and the FAS are. The Pension Protection Fund was established by the Pensions Act 2004. It pays compensation to individuals when the sponsors of their defined-benefit pension schemes—usually their employers—become insolvent and lack the necessary assets to pay pensions to the level that the Pensions Protection Fund would ordinarily pay. That applies for insolvencies that take place on or after 6 April 2005. The financial assistance scheme applies to individuals whose pension schemes were unable to meet their pensions liabilities in full when those schemes started to wind up between 1 January 1997 and 5 April 2005.

Currently, the PPF can make a one-off lump sum payment to someone who has not yet drawn their PPF compensation but is terminally ill. The FAS makes similar provision by allowing the early payment of financial assistance. Both the PPF legislation and the FAS regulations use the same definition of terminal illness. As I alluded to earlier, the Bill will bring the Pension Protection Fund and the financial assistance scheme in line with the Department for Work and Pensions' definition of terminal illness, which, following the Social Security (Special Rules for End of Life) Act 2022, was likewise extended up to 12 months when calculating certain benefits. Therefore, the Bill seeks to harmonise the legislative definition of terminal illness such that following its commencement all legislation will use the extended 12-month definition.

I repeat that I hope that by harmonising the legislative definition we can encourage all pension providers that do not already have provision for considering serious ill-health payments when the member has a life expectancy of 12 months or less to consider putting that in place or updating or extending their scheme rules. Yes, the Bill has a narrow scope, but it might act as a prompt and as encouragement to other pension providers.

The Bill is legally tight, consisting of just three clauses. Clause 1 amends the current definition of “terminally ill”, normally referred to as “end of life”, from six months to 12 months in all relevant legislation; clause 2 covers the territorial extent and commencement of the Bill; and clause 3 establishes the short title of the Act: the Pensions (Special Rules for End of Life) Act 2024.

**Sir Greg Knight** (East Yorkshire) (Con): Is my hon. Friend entirely happy with the wording of clause 2(4)? Has he had an undertaking from the Minister that the Government will bring the Bill into force as soon as possible? I ask because I was lucky enough to take the through Parliament Parking (Code of Practice) Act 2019, which had a similar clause. Some five years later, we are still waiting for the Government to introduce the parking code of practice, which is outrageous. If my hon. Friend has not had an undertaking from the Minister, does he think he should obtain one?

**Mr Robertson:** I am grateful to my right hon. Friend for reminding me that the Bill's introduction depends on the Minister taking action. It was not this Minister

who spoke on Second Reading but one of his colleagues, and we did receive an assurance that the legislation would be in place as soon as possible. As I understand it, we need to make sure that the situation in Northern Ireland is brought together with our legislation, because it is a devolved matter. I will come on to that in a minute. The Minister on Second Reading assured me that it would be brought in as soon as possible; I do not know exactly when that will be, but I am sure that the Minister will confirm it today. If he does not confirm it as strongly as we would like, maybe we can intervene on him, but I am satisfied that, given the Government's support for the Bill, they will seek to introduce it as soon as all the ducks are in a row—that is how I can best describe it. But my right hon. Friend's point is very important.

The Bill's territorial extent is slightly complicated, given that aspects of the Pension Protection Fund are covered by devolved legislation in Northern Ireland, as seen in clause 1(3) and (4) and clause 2(2). However, officials are working with the devolved legislature on that matter, and as I understand it our colleagues in Northern Ireland are keen to see the alteration happen as soon as possible.

As explained, the Bill focuses on only the Pension Protection Fund and the financial assistance scheme. Thus, clause 1 and its subsequent subsections seek to amend relevant legislation and provisions connected to the Pension Protection Fund and the financial assistance scheme. Specifically, subsections (1) and (2) amend the definition of terminal illness by changing the period of life expectancy from the current six months to 12 months, in respect of Pension Protection Fund compensation.

**James Gray** (North Wiltshire) (Con): I warmly congratulate my hon. Friend on this extremely worthwhile Bill. It really is a superb effort and I am grateful to him for it. I am puzzled, however; perhaps I should have asked this question on Second Reading. Who defines whether the person is terminally ill within 12 months? After all, many diagnoses of terminal illness may well last longer than 12 months, and some people may have no such diagnosis. Where does the six or 12 month-period come from? Who decides it, and what is the certification that that is the case?

**Mr Robertson:** I am grateful to my hon. Friend for raising that point. As I understand it, it is a classification or assessment made by the medical person in charge of a person's very sad case. One of my motivations for introducing the Bill is that, given advances in medical science, it can be difficult to predict how long somebody is likely to live. Six months is a very short period of time and, through appropriate care, somebody can perhaps live longer than that. I seek to extend it to 12 months, which is somewhat more all-encompassing, but it is still a prediction. It is still drawing a line somewhere.

One of the points raised by my hon. Friend the Member for Shipley (Sir Philip Davies) on Second Reading was that perhaps we should assess the person's capabilities and physical and mental state rather than try to predict how long they will live. That was a worthwhile intervention from him, but I do not think we are at that stage yet. What we are saying now is to extend the six-month period to 12 months, because that would make it a little more predictable—if that is the

right word. It is a difficult area and my hon. Friend the Member for North Wiltshire has picked up on a good point.

Clause 1(1) amends schedule 7 to the Pensions Act 2004 and subsection (2) amends schedule 5 to the Pensions Act 2008, with both substituting six months for 12 months.

**Christine Jardine** (Edinburgh West) (LD): I, too, offer the hon. Gentleman my congratulations. The Bill is extremely worth while. We have talked about the difficulties of diagnosis and the fact that 12 months is a more reasonable period, but does he anticipate that extending the period from six to 12 months will bring a lot more conditions and illnesses into the scope of the legislation?

**Mr Robertson:** I am grateful for that intervention; it is a good question. Not being a medical person, I assume it would bring some more illnesses within the definition, but it will not affect a huge number of people. As I say, the Bill is fairly narrow in scope. What I hope it will do is prompt the providers of other pension schemes to consider adopting the 12-month period rather than six months. Yes, I am sure it will bring in more people with various illnesses. Not being a medic, I would hesitate to go any further, but that is a good point.

Clause 1(3) and (4) make similar provisions to subsections (1) and (2) but for Northern Ireland, amending the definition of terminal illness in respect of Pension Protection Fund compensation payments. Subsection (3) amends schedule 6 to the Pensions (Northern Ireland) Order 2005 and subsection (4) amends schedule 4 to the Pensions (No. 2) Act (Northern Ireland) 2008. Again, both substitute six months for 12 months.

I have a few more provisions to read through yet; I apologise to the Committee. Subsection (5) amends the definition of terminal illness and the period of life expectancy in relation to progressive disease in regulations 2(9) and 17(3D) of the Financial Assistance Scheme Regulations 2005. Again, both substitute six months for 12 months.

10.15 am

Subsections (1) and (2) of clause 2 focus on the territorial extent of the Pension Protection Fund. Subsection (1) iterates the relevant subsections of clause 1 that extend to England, Wales and Scotland—that being subsections (1) and (2) of clause 1. Subsection (2) iterates the relevant subsections of clause 1 wherein the territorial extent covers Northern Ireland—that being subsections (3) and (4) of clause 1. Subsection (3) of clause 2 focuses on the territorial extent of the financial assistance scheme, wherein subsection (5) of clause 1—applying to all three clauses—extends to England, Wales, Scotland and Northern Ireland.

Subsections (4), (5) and (6) of clause 2 focus on commencement and protocol. Specifically, subsection (4) provides that subsections (1), (2) and (5) of clause 1, relating to PPF and FAS, will come into force on the day appointed in regulations made by the Secretary of State. That determines that the relevant amendments to the definition of terminal illness are determined on a day of the Secretary of State for Work and Pensions' choosing. Subsection (5) of clause 2 provides that subsections (3) and (4) of clause 1 relating to Northern Ireland will come into force on the day that the Department for Communities in Northern Ireland appoints by order.

I have covered this a bit, but will read it anyway. Going back to the point raised earlier, I am aware that the content of subsections (4) and (5) of clause 2 relating to commencement caused some concern on Second Reading—demonstrated again via an intervention today—given that it leaves the issue in an undefined position. I want to repeat the words of the Minister for Employment, my hon. Friend the Member for Bury St Edmunds (Jo Churchill), at the Dispatch Box. She explained:

“It is the intention for that”—

the day appointed by the Secretary of State—

“to be as soon as practicable after Royal Assent, to ensure that all measures relating to the Pension Protection Fund and financial assistance scheme come in at the same time.”—[*Official Report*, 2 February 2024; Vol. 744, c. 1119.]

Again, I am sure the Minister will comment on that further today.

To return to the Bill, which I have to do, subsection (6) provides that clauses 2 and 3—on territorial extent and commencement, and the long title respectively—will come into force on Royal Assent. Subsections (7) and (8) of clause 2 provide that regulations made under subsection (4), relating to the Secretary of State for Work and Pensions, or an order made under subsection (5), relating to the Department for Communities in Northern Ireland, may contain transitional or saving provisions.

**Christina Rees (Neath) (Lab/Co-op):** I congratulate the hon. Member on his commendable Bill and thank him for inviting me to be part of his Committee today. Please forgive me, for I should know this, but I cannot find it in the notes: which medical professional would be responsible for assessing the life expectancy term? Would that be confined to one or two medical professionals?

**Mr Robertson:** I am grateful to the hon. Lady for raising that point. My understanding is that it is one medical professional. I cannot give her a specific answer, but I understand that it is the person who is in charge of that case for that particular person. I do not know exactly how senior they are. I understand that it is not subject to second opinions or anything like that.

**Dr Thérèse Coffey (Suffolk Coastal) (Con):** I thank my hon. Friend for allowing me to intervene at this point. I was responsible as Secretary of State for doing quite a lot of this realignment. In essence, the NHS treats and issues certificates on the basis—which brings in other elements—that the end of life is, in its view, 12 months, so it will be a doctor, nurse or similar who does that. This is a simple alignment with how the NHS defines terminal illness in practice.

**Mr Robertson:** I am grateful to my right hon. Friend for providing more information than I have to hand. As far as I can see, that is the right way to go about this. Twelve months probably gives a little more reassurance to the person making that assessment.

Transitional provisions are guidelines that outline how to transition from the old regulations to the new ones, and saving provisions are designed to protect certain rights, privileges, obligations or legal proceedings that are already in place before the new regulations or orders come into effect. That means that subsections (7) and (8) of clause 2 simply allow for the creation of regulations or orders that include special clauses to

manage the change from old to new regulations, protecting against any unintended consequences that might arise during the transition.

To return to the Bill—we are getting there—subsection (9) of clause 2 provides that regulations under subsection (4), relating to the Secretary of State for Work and Pensions and with the territorial extent of England, Wales and Scotland, will be made by statutory instrument. That is a form of legislation, as everybody here is aware, that allows a provision of an Act of Parliament to be subsequently brought into force or altered without Parliament having to pass a new Act. Subsection (10) provides that an order made under subsection (5) of clause 2, relating to the Department for Communities in Northern Ireland and with the territorial extent of Northern Ireland, is exercisable by statutory rule—again, a form of legislation that allows for detailed regulations to be created without the need for a new Act of Parliament.

Finally, as I mentioned, clause 3 is simply the short title of the Act, which, if the Bill is passed, will be the Pensions (Special Rules for End of Life) Act 2024. I do hope that it will be passed in this Parliament and that the extended definition of terminal illness—life expectancy of 12 months—will come into force, providing a little bit of ease to individuals who have received the most devastating news. I thank the Committee for its indulgence.

**Dr Coffey:** It is a pleasure to speak in Committee about the Bill, which I strongly support. As I have already pointed out, some of the realignment involved is intended to ensure some simplicity for people at one of the most difficult times of their lives, so that they do not have to go around getting different aspects of treatment or negotiating. We made that good change a few years ago. There have been various bits of legislation along the way—some welfare and pensions legislation is done through regulations and some through primary legislation, so it can seem cumbersome. But this is the right moment to make sure that this part of the support available to people in their difficult last moments is fully aligned.

I would like to say something to the Minister. I am conscious that getting even regulations through Parliament takes time and more effort from officials. I would like him either to confirm that the regulations have already been drafted in anticipation of Royal Assent, so that they can be laid before Parliament straight away, or to say that he will consider simply changing the element in question. I have been encouraging others leading private Members' Bills through Parliament to change the commencement dates so that they come into force three months after Royal Assent.

I am conscious that the Pensions Regulator and similar organisations might have to address some issues, but they should know that the Bill has the full support of this House—of both Houses, I anticipate. We should not wait for further legislation to be commenced, given that people at the end of their lives would welcome this matter being put to bed straight away.

**The Chair:** If no other Members wish to contribute, I call the Minister.

**The Parliamentary Under-Secretary of State for Work and Pensions (Paul Maynard):** It is a pleasure to serve under your chairship, Dame Siobhain. I thank my hon.

Friend the Member for Tewkesbury for bringing forward this legislation; I should also thank my right hon. Friend the Member for Suffolk Coastal, the former Secretary of State for Work and Pensions, for paving the way.

This may seem a small and discrete piece of legislation, but it is very important. As my hon. Friend the Member for Tewkesbury explained, the Bill extends the definition of terminal illness for compensation payments made under both the Pension Protection Fund and the Financial Assistance Scheme. Members will be able to claim their compensation on the grounds of terminal illness if a medical professional confirms that they have less than 12 months to live, rather than the current six months. That will enable eligible members to receive the vital support of payments at an earlier point in their illness. The change restores the original policy intent of alignment between the social security special rules provisions and both the PPF and FAS. It will also bring those two schemes into line with the tax definition of “serious ill health”, which allows private pension schemes to make payments where the member has less than 12 months to live.

I will try to cover some of the issues raised today and on Second Reading. There was a particular concern on Second Reading as to whether people whose schemes were not in the PPF or FAS would have a similar opportunity. Although I cannot provide definitive numbers—I do not believe they actually exist—for serious ill health payments, one of the leading independent trustee firms, Dalriada, has confirmed that:

“Trustees may only make such payments in accordance with the provisions of their scheme’s trust deed and rules. In practice, most scheme rules do allow for such payments.”

Officials have also contacted the Association of Pension Lawyers, which collectively acts for many schemes of all sizes. It has confirmed that, in the experience of its members, most occupational pension schemes will have an option of a serious ill health lump sum payable on a discretionary basis.

We have also heard questions today, and as we did on Second Reading, about who would be making the decisions on terminal illness, and the range of those illnesses. I can confirm that those decisions will be made by healthcare professionals, such as clinicians and medical practitioners, who have had direct oversight of the individual concerned. Although there is no definitive list of what constitutes a terminal illness, I imagine that the provisions would certainly include illnesses such as advanced cancer, dementia, motor neurone disease, and other neurological diseases, such as Parkinson’s. However, in my view the definition does not exclude any particular range of conditions, because one’s lived experience of a condition is not determined by the label that we hang around our necks. I find that I have been saying that for 48 years of my life, frankly. We do not determine someone’s lived experience just by the name of their particular condition.

My hon. Friend the Minister for Employment was also asked on Second Reading whether fixed time limits were the right way to go, and whether there would be adequate training for clinicians and communication to make people aware of the changes. The Department engaged widely on time limits ahead of the Social Security (Special Rules for End of Life) Act 2022, and chose the 12-month approach specifically to align with

the NHS definition of “end of life”, and to link up with existing initiatives for clinicians that encourage the identification of people in their final year of life. This Bill simply aligns the definition used for the PPF and the FAS with that used more widely by the DWP and the NHS.

As part of the preparations made ahead of the 2022 Act, the Department engaged extensively with senior clinicians from key medical organisations and hospices, as well as representatives from multiple charities and networks of welfare advisers. DWP bulletins were sent out by the British Medical Association, the Royal College of General Practitioners, the Royal College of Physicians, the Association for Palliative Medicine, Hospice UK and NHS England networks across the country. The Department also initiated plans to create a learning module for clinicians to raise awareness among the clinical community of the financial support available for those who are nearing the end of life. That learning module went live in February.

Assurances were also sought that the definition of a terminal illness would be consistent across the DWP. I can provide that assurance today. As the Minister for Employment said on Second Reading, this Bill builds on the previous legislation—which we have just heard about—which changed the special rules for social security benefits. The scope of that legislation limited the changes that we could make to social security benefits administered by the DWP, as they involved the fast-tracking of benefit claims. This final change brings payments made by the PPF and FAS into alignment with those changes.

As I mentioned a little earlier, this Bill aligns the PPF and FAS definition with the tax rules for serious ill health. That will ensure that the payments made by the PPF do not trigger unauthorised payment tax charges on either the PPF or the individual to whom the payments are made. If the definition was to be amended beyond 12 months, as some have suggested, members could have faced significant tax charges on their payments, which I am sure no one wishes to see happen.

I have noted the comments today from my right hon. Friends the Members for East Yorkshire and for Suffolk Coastal about the commencement of the provisions in the Bill. I can confirm today that the intention is for that to happen as soon as practicable after Royal Assent. I see no reason for delay or obfuscation. We have all agreed today that this is a vital piece of legislation that will benefit many of the most vulnerable in our society at the time they need help most, so I have no intention at all of delaying it.

**Sir Greg Knight:** I am most grateful to the Minister for what he has just said. Can he confirm that that is an undertaking that he has given, and that it is unequivocal?

10.30 am

**Paul Maynard:** Given that the phrase I used was “as soon as practicable”, I can give that solemn undertaking. I would hate it if either scheme had some kink in its processes that might cause delay. I will do everything in my power to ensure that this is done as soon as possible. I meet the PPF regularly, and this will be on the agenda for the next meeting to make sure all its ducks are in a row, like all the Department’s are.

To conclude—

**James Gray:** Before the Minister does that, does he agree that one person who would have been very pleased by this legislation is that great champion of pensions and of pensioners, Frank Field, who died yesterday? He was a great man and a great gentleman.

**Paul Maynard:** I am grateful for that intervention, because I should have thought to start my speech by paying tribute to Frank Field and the immense amount of work he did in the Department for Work and Pensions. He was a thoughtful and humane man, respected on both sides of the House, and I am more than happy to join in paying tribute to him.

Being told that one is nearing the ends of one's life can be a devastating and frightening experience. It is crucial that those reaching the final stages of their life do not have to worry as much about their finances and can focus on spending their time with the people who matter to them. The Bill takes us one step further toward ensuring that that can happen, building on the changes made back in 2022. I am grateful to my hon. Friend the Member for Tewkesbury for promoting the Bill, and I commend it to the Committee.

**Mr Robertson:** I thank the Minister for that positive response. We look forward to the measure being introduced as soon as practicable. I also thank all members of the Committee for their attendance and contributions today, as well as the team who helped to put the Bill together.

It was rather remiss of me to forget to pay tribute to Frank Field, and I am grateful to my hon. Friend the Member for North Wiltshire for reminding us. A long time ago, before I was elected to this House, I had the pleasure of working with Frank on a charity project I was involved with, just across the river at Lambeth Palace. We were raising money to create a hostel for homeless women in London at Marylebone complex, just off the Marylebone Road, and Frank was very active member of the fundraising committee. There was no benefit to him; he did it because he felt it was the right thing to do. I pay sincere tribute to Frank.

That seems a good point to finish my speech by restating my thanks to everyone who helped with the Bill.

**The Chair:** I am sure we are all united in sending our condolences to the family and friends of Frank Field, a man who showed us all how to be a Member of Parliament.

**Hon. Members:** Hear, hear.

*Question put and agreed to.*

*Clause 1 accordingly ordered to stand part of the Bill.*

*Clauses 2 and 3 ordered to stand part of the Bill.*

*Bill to be reported, without amendment.*

10.33 am

*Committee rose.*