

A04235

PRIME MINISTERParliamentary Affairs: Social Security Bill

## BACKGROUND

1. The two main purposes of the existing draft of the Social Security Bill, originally intended for introduction later this week, are to provide for the holding back of the November 1981 social security benefit up-rating to recover the excess of 1 per cent in the November 1980 up-rating, and to make provision for the introduction of an employers' statutory sick pay (ESSP) scheme. Under the latter scheme, employers would be made responsible for providing the statutory minimum amount of sick pay for the first eight weeks of sickness of an employee in each tax year, or in each spell of sickness. The overall cost to employers of the new arrangements would be rather more than counter-balanced by a reduction of 0.6 per cent in employers' national insurance contributions. Special reimbursement schemes would be provided to deal with new employees, and to provide special benefits for small businesses. The scheme would bring 90 per cent of claims for sickness benefit into tax, would enable the DHSS to save some 5,000 posts, and would reduce public expenditure by about £400 million a year, though the adjustment to employers' national insurance contributions would mean that there would be no corresponding reduction in the public sector borrowing requirement.

2. The ESSP proposals have run into severe criticism from employers' organisations and from the Government's own supporters in Parliament, mainly because of continuing fears about the effect on small businesses, and the position of those manufacturers and other employers whose ESSP payments would exceed the reduction in their national insurance contributions because their employees had worse than average sickness records. There has also been considerable disquiet about the imposition of additional administrative burdens on industry as a whole. It has become clear that, in spite of the various concessions made by the Government since the Green Paper was published in April last year, there is a high risk of the Government's being defeated on the proposals as they stand at present. With the Home Secretary's agreement, the Chancellor of the Duchy of Lancaster and Paymaster General chaired a meeting of the Home and Social Affairs Committee on 11 February to consider the best way of handling these proposals.

3. The Committee agreed that it would be wrong in present circumstances to proceed with the present proposals. They identified two possible alternatives. Under the first, the Social Security Bill would be modified so as to reflect the latest compromise proposals arising from discussion with the Confederation of British Industry. All employers would be entitled to deduct 50 per cent of their expenditure on actual ESSP payments from their tax and national insurance remittances, with the remaining 50 per cent being covered by a 0.3 per cent reduction in the level of the employers' national insurance contribution. This would halve the staff savings expected from the original scheme, but would retain the planned reduction in public expenditure, and would still give employers an incentive to exercise close control over sickness payments. The majority of the Committee favoured this approach, though the Chief Whip and the Parliamentary Under Secretary of State, Department of Industry, thought that the absence of any special provisions for small businesses would make it at least as unpalatable to the Government's supporters as the existing proposals. The other alternative would be to confine the present Bill to the uprating provisions and the miscellaneous amendments of the social security law, and to give further consideration to the drafting of modified proposals on ESSP which might command a wider basis of support. This was the approach favoured by the Chancellor of the Duchy of Lancaster and the Secretary of State for Social Services.

4. The Chancellor of the Duchy, with the agreement of the Committee, reported the outcome of their discussion to you for decision. You came to the conclusion that the ESSP proposals should be omitted from the Social Security Bill, whose only major provisions would then be those on the November 1981 up-rating. The Bill, as amended, would be introduced at the end of this week. Further consideration would be given to the possibility of legislation early next Session on the ESSP, but you were quite clear that no Bill should be introduced unless it was quite certain that it embodied a fully worked out and defensible scheme and it seemed likely that there would be a majority in both Houses for its main provisions. The Chancellor of the Duchy subsequently reported your decision to the Secretary of State for Social Services in a minute which has been copied to all members of the Cabinet.

## HANDLING

5. You will wish to begin by informing the Cabinet of the decision which you have taken, and inviting the Chancellor of the Duchy of Lancaster to add any further comments arising from the discussion in H Committee. The Chancellor of the Exchequer or the Chief Secretary may wish to comment on the public expenditure implications of postponing or abandoning the ESSP proposals. The expected saving of £400 million has already been included in the targets for 1982-1983 incorporated in the draft White Paper on public expenditure which has now been nearly finalised. You may wish to ask the Chancellor to confirm that postponement of the ESSP provisions will have no significant effect on the public sector borrowing requirement. The Lord President of the Council may wish to give his preliminary reactions to the loss of the expected manpower savings. The Secretary of State for Social Services cannot be expected to find fully compensating economies within his own Department, and other Departments will have to make an additional contribution if the Lord President's objective of reducing the size of the Civil Service to 630,000 by April 1982 is to be achieved. The Secretary of State for Social Services was prepared at H Committee to accept the postponement of the Bill, but he may wish to comment on the implications for his Department's manpower and public expenditure targets. It will be for him to take the lead in drawing up new proposals for an ESSP scheme and to bring them to H Committee in due course.

6. Further consideration will have to be given to the best way of presenting the decision not to proceed with legislation on ESSP this Session and making clear that the Government have not abandoned the idea altogether. The Secretary of State for Social Services might agree to make a statement early next week, by which time the abridged Social Security Bill will have been published. If so, he will need to clear the text with you, the Chancellor of the Exchequer, the Lord President, and the Chancellor of the Duchy of Lancaster. (The alternative is to postpone publication of the Bill until next week to coincide with such a statement. The Business Managers are opposed to any delay in introducing the Bill.)

\* What is now proposed is a Written Answer tomorrow (Thursday) and subsequent briefing of the Press;

CONCLUSIONS *The Bill would be introduced on Thursday and published on Friday. M.C.*

7. You will wish to guide the Cabinet to take note of your decisions on the handling of the ESSP proposals, and to invite the Chancellor of the Exchequer and the Lord President to give further consideration with the

Ministers concerned to the public expenditure and manpower implications of postponement. The Secretary of State for Social Services might be invited to clear with you, the Chancellor of the Exchequer, the Lord President, and the Chancellor of the Duchy of Lancaster the text of a statement to be made early next week.

RIA

11 February 1981

PRIME MINISTER

Top Copy filed  
 on Parl Members:  
 Pay + Pensions:  
 Pt 4

Parliamentary Affairs1. Next Week's Business

You will see that the Opposition are likely to nominate Linwood as one of the subjects for their Supply Day on Tuesday. As I have said elsewhere, I am sure that we shall come under a lot of pressure on this.

\* On Thursday, we shall return to the topic of Members' pay and pensions. Mr. Pym has been having consultations in the light of the Cabinet's earlier decisions, and his office will be letting us have a note of what he now proposes later tonight.

Below  
 (Duty date 11/2/81)

2. Sickness Pay

The only other major topic to be discussed is the decision reached earlier today on the Social Security Bill. A minute from Mr. Pym and a Cabinet Office brief are attached.

MJS

\* In the light of discussions with George Cunningham last night, the CDL now wab to go after all for the "Cunningham formula" - so giving the House a chance to amend the figure after all. Mr St John Stevens promise at flag A is too firm to go back on without a row, in Mr Pym's view

11 February 1981

The business has been arranged in such a way that the Opposition ought to be away at the end of next week (they are expected to be on a 1-line whip on Wednesday and Thursday); we should, therefore, win!

MJS



mt

CBI

SECRETARY OF STATE FOR SOCIAL SERVICES

## SOCIAL SECURITY BILL

1. As you know, the Home Secretary asked me to take the chair this morning at the meeting of the Home and Social Affairs Committee which discussed the difficulties which we would be likely to encounter with our own supporters if we were to go ahead with the proposals on Employers' Statutory Sick Pay (ESSP) in the form in which they were in the draft Social Security Bill already circulated to Legislation Committee. I attach a summary of the ESSP scheme, and of H Committee's discussion, for the benefit of Cabinet colleagues who were not present at the meeting. Essentially we came to the conclusion that there were only two realistic options. We could introduce a modified Bill reflecting the latest CBI proposals, which go some way to meeting the most severe criticisms of the present scheme, and also making provision for the 1-per-cent claw-back in the November 1981 Social Security Benefit Up-rating. Alternatively, we could postpone the ESSP provision to next session, thereby giving ourselves a breathing space to re-examine the policy and the practicalities, and confine this session's Bill to the essential up-rating provisions and a few miscellaneous and non-controversial amendments of Social Security Law. H Committee agreed that I should report the outcome of their discussion to the Prime Minister, so that she could take the final decision on how we should proceed.

2. This I did and, as I have already told you, the Prime Minister is opposed to proceeding with legislation on ESSP unless we are sure that it embodies a fully worked out and defensible scheme, and that we can successfully carry the legislation in both Houses. She noted that there had not yet been time to examine the implications of the modified CBI scheme in detail. Moreover, the reports she herself has received of back-bench and Party opinion on this subject



show that there would, at the moment, be very strong resistance to any scheme which met the Government's objectives. She has therefore decided that the ESSP provisions should be deleted from the Social Security Bill, and arrangements are now in hand to introduce the shorter Bill on Friday, 13 February, with the intention of its reaching the Lords before Easter and obtaining Royal Assent, as is essential, by the beginning of July. The matter will be reported to the Cabinet in discussion of "Parliamentary Affairs" tomorrow morning.

3, I am copying this minute to the Prime Minister, other Cabinet colleagues, to the Attorney General and the Chief Whip, and to Sir Henry Rowe and Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to be 'FP', with a horizontal line underneath.

FRANCIS PYM

11 February 1981

HOME AND SOCIAL AFFAIRS COMMITTEE: 11 FEBRUARY 1981  
SUMMARY OF DISCUSSION OF THE SOCIAL SECURITY BILL

The proposed Employers' Statutory Sick Pay Scheme (ESSP) which is set out in the current draft of the Social Security Bill incorporates changes made as a result of the largely hostile reaction to the Green Paper published in April 1980. It places a duty on employers to provide a minimum amount of sick pay for the first eight weeks of sickness in each tax year, or in each spell of sickness. The overall additional cost to employers will be rather more than counterbalanced by a reduction of 0.6 per cent in the employers' national insurance contribution, though differing levels of sickness will mean that some employers will be net beneficiaries from the scheme, while others will find themselves under-compensated for their sickness payments. There will be a reimbursement scheme under which all employers will be entitled to reclaim 50 per cent of ESSP paid in respect of new employees, and a further reimbursement scheme designed to give extra help to small businesses. If implemented, the present scheme would reduce public expenditure by about £400 million, reduce the size of the civil service by around 5,000 posts, and bring 90 per cent of claims for sickness benefit into tax at source. Because of the proposed decrease in employers' national insurance contributions, there would not be a corresponding reduction in the public sector borrowing requirement.

The Secretary of State for Social Services reminded the Committee that the ESSP proposals had always been resented, particularly by small businesses, because it was thought that the proposed compensation



arrangements were inadequate, in spite of the decision to increase the reduction in the national insurance contribution from the 0.5 per cent put forward in the Green Paper to 0.6 per cent. The Confederation of British Industry (CBI) had put forward an alternative scheme under which employers would be entitled to deduct their actual expenditure on ESSP from their gross tax and national insurance payments. The CBI proposals had been widely publicised, and had attracted considerable Parliamentary support among the Government's own backbenchers.

The CBI's scheme in its original form was unacceptable to the Government because it would give employers no incentive to monitor the validity of the claims to ESSP which they met under the scheme. Extensive monitoring procedures would have to be established by the Department of Health and Social Security and the Inland Revenue, which could well lead to a net increase in civil service manpower instead of the reduction of 5,000 which the scheme was designed to achieve.

The Secretary of State for Social Services told the Committee that the CBI had now come up with a modification of their original scheme, under which employers would be able to deduct 75 per cent of their ESSP payments from their tax and insurance remittances. The proposed reduction in the employers' national insurance contribution would be adjusted accordingly. The CBI had been told that the DHSS would be prepared to examine this variant provided that deductions from tax and insurance were limited to 50 per cent of ESSP payments.

Although the new CBI proposal did not overcome all the objections made to their original one, it would provide employers with some incentive to maintain a close check on their ESSP payments, and should enable a net saving of some 2,500 staff to be made.

The Secretary of State for Social Services had seen the Conservative back bench Social Services Committee the previous evening. The feeling against the Government's existing proposals had been very strong, and many members had said that they would feel obliged to vote against them as being penally burdensome to employers when considered against the background of the many other difficulties which they were facing at the present time. Although there had been understanding of the reasons which had led the Government to put forward its proposals, there had been strong pressure for the Bill to be postponed so that further consideration could be given to the main objections to the scheme. A switch to the modified CBI proposals would not disarm the Government's critics entirely, but it would make the ESSP part of the Social Security Bill much less controversial.

Parliamentary Counsel had already drafted an alternative version of the Bill to reflect the latest CBI proposals, and this should be ready for introduction on Friday 13 February.

On balance, the Secretary of State's own preference was to postpone the ESSP proposals to a separate Bill at the beginning of next Session, and to confine the existing Social Security Bill to the provisions necessary to hold back the November 1981 social security benefit

up-rating and to give effect to a number of miscellaneous and non-controversial changes in the social security law.

In discussion, the Committee agreed that there should be no going back on the principle of the ESSP proposals. The view of the Chief Secretary, Treasury, supported by the majority of the Committee, was that the Government should go ahead immediately with legislation based on the new CBI proposals. This would only achieve half the manpower savings originally intended, but it would be almost as valuable in terms of public expenditure reductions. The credibility of the Government's public expenditure plans for 1982/1983 would be greatly undermined if the saving of £400 million were not made. Further delay would increase rather than decrease opposition to the Government's proposals. The Lord President of the Council was willing to accept the loss of manpower savings implicit in the CBI scheme, but warned that compensating economies would have to be found in DHSS or elsewhere.

The Chief Whip, and the Parliamentary Under Secretary of State, Department of Industry, thought that the failure of the CBI scheme to provide for any special benefits to small businesses would make it more difficult to carry intact than the existing Government proposals. The new scheme implied that the reduction in the employer's national insurance contribution would be limited to 0.3 per cent; this would actually worsen the cash flow position of small businesses, and would probably lead to an even more powerful lobby being mounted against the Bill after its introduction. The danger was that a Second Reading would be given to a Bill incorporating

the CBI plan, with further benefits for small businesses having to be added at Committee Stage. The only practical way of restoring some sort of differential for small businesses would be to allow them to offset say 75 per cent of the cost of ESSP against tax and insurance payments, as opposed to 50 per cent for other employers; but such a complication would further erode the staff savings expected from the scheme.

The Secretary of State for the Environment challenged the assumption that employers needed a financial incentive to control unjustified sick absences. He was in favour of conceding something like the original CBI scheme, under which employers would be entitled to recoup the whole of their ESSP expenditure from their tax and national insurance remittances.

The Committee accepted that any Bill dealing with ESSP would have to reach the House of Lords by Easter in order to have any chance of being passed by early July, the deadline for legislation to implement the changes in the November 1981 social security benefit up-rating.

The Chancellor of the Duchy of Lancaster and Paymaster General, who chaired the meeting, said that his personal view was that the risk inherent in proceeding with legislation on ESSP this Session were unacceptable. He noted, however, that the majority of the Committee favoured the introduction that week of a modified Bill reflecting the CBI's latest proposals, and he undertook to report the position reached to the Prime Minister so that she could take a final decision.

11 FEB 1981

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*With the Compliments of*  
*Department of Health and Social Security*

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## FILE NOTE

1. This note sets out the calculation of inflation between uprating dates in 1979 and 1980.
2. The RPI for 16/12/1980 was 275.6 and for 18/11/1980 was 274.1. From these figures it is possible to calculate a notional RPI figure of 274.5 for 25/11/1980, i.e.  $274.1 + \frac{1}{4}(275.6 - 274.1)$
3. The RPI for 13/11/1979 was 237.7, so the best estimate of inflation between upratings is obtained by comparing 237.7 with 274.5. This produces an estimate of price rises over that 54-week period of 15.5%.

Marta Lerner

23 January 1981

cc Mr Billing  
Mr Chislett  
Ms Clayton  
Mr Reith

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①

TIM

You might like to be aware of this rationalisation  
for 15.5% -

②

PA (Social Security file)

MS

12/2

17 FEB 1981

