



# House of Commons

Thursday 23 October 2014

## PUBLIC BILL COMMITTEE

*New Amendments handed in are marked thus ★*

☆ *Amendments which will comply with the required notice period at their next appearance*

### PENSION SCHEMES BILL

#### NOTE

**The Amendments have been arranged in accordance with the Resolution of the Programming Sub-Committee.**

Steve Webb

Clause 5, page 3, line 4, after “circumstances” insert “and meets any other requirements that may be specified in regulations” 41

***Member’s explanatory statement***

*Under clause 5(6), discretions to vary the benefit which are only capable of being used for reasons related to a member’s individual circumstances are disregarded when establishing whether or not there is a full pensions promise. This amendment allows the Secretary of State to specify in regulations other requirements that must be met in order for these discretions to be disregarded.*

Steve Webb

Clause 8, page 4, line 23, leave out “that use expressions defined by this Part” and insert “to do with Parts 1 and 3”. 6

***Member’s explanatory statement***

*The amendment changes the words used to describe Schedule 1 to the Bill. This is necessary given other material that is being inserted into Schedule 1.*

Steve Webb

That clause 8 be transferred to the end of line 6 on page 15

***Member’s explanatory statement***

*The Bill needs restructuring in light of the proposed Government amendments. There are a number*

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**Pension Schemes Bill, continued**

*of motions to transfer provisions around. Collectively they are designed to move Part 2 of the Bill to after Part 3 and to move clause 8 and Schedule 1 to the end of what is currently Part 2.*

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Steve Webb

29

- Schedule 1, page 19, line 2, at end insert “, or  
 (c) a shared risk scheme under which all the benefits that may be provided are money purchase benefits or collective benefits.”

**Member’s explanatory statement**

*This text is taken from paragraph 4 of Schedule 4 to the Bill, which is left out by amendment 40. The effect is unchanged.*

Steve Webb

30

- Schedule 1, page 19, line 4, at end insert—  
 “““collective benefit” has the meaning given by section 19 of the Pension Schemes Act 2014;””

**Member’s explanatory statement**

*This amendment inserts the definition of a collective benefit for the purposes of the Pension Schemes Act 1993.*

Steve Webb

55

- Schedule 1, page 19, line 13, at end insert—  
 “9A In section 37 (payment of surplus to employer), in subsection (1A)—  
 (a) after “does not apply in the case of” insert “—  
     (a) ”;  
 (b) at the end insert—  
     “(b) any payments out of funds held for the purposes of providing collective benefits under the scheme (but see section (*Payment of amounts out of collective benefit funds*) of the Pension Schemes Act 2014).””

**Member’s explanatory statement**

*The amendment disapplies section 37 of the Pensions Act 1995 in respect of collective benefits.*

Steve Webb

31

- Schedule 1, page 19, line 24, leave out paragraphs 13 and 14 and insert—  
 “13 In section 73 (preferential liabilities on winding up), for subsection (2) substitute—  
 “(2) This section applies to a pension scheme that is—  
     (a) an occupational defined benefits scheme,  
     (b) an occupational shared risk scheme, or  
     (c) an occupational defined contributions scheme,  
 unless subsection (2A) provides for the scheme to be exempt.  
 (2A) A scheme is exempt from this section if it is—  
     (a) a scheme under which all the benefits that may be provided are money purchase benefits, or

**Pension Schemes Bill**, *continued*

- (b) a prescribed scheme or a scheme of a prescribed description.”
- 14 In section 75 (employer debt where deficiency in assets on winding up etc), for subsection (1) substitute—
- “(1) This section applies in relation to a pension scheme that is—
- (a) an occupational defined benefits scheme,
  - (b) an occupational shared risk scheme, or
  - (c) an occupational defined contributions scheme,
- unless subsection (1A) provides for the scheme to be exempt.
- (1A) A scheme is exempt from this section if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
  - (b) a scheme under which all the benefits that may be provided are collective benefits,
  - (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
  - (d) a prescribed scheme or a scheme of a prescribed description.
- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
  - (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
- the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 14A (1) Section 87 (schedules of payments to money purchase schemes) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies to an occupational pension scheme that is a scheme under which —
- (a) all the benefits that may be provided are money purchase benefits, or
  - (b) all the benefits that may be provided are money purchase benefits or collective benefits,
- other than a scheme falling within a prescribed class or description.”
- (3) In subsection (2)(a), after “members of the scheme” insert “in respect of money purchase benefits”.
- (4) In the heading, for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.
- 14B For the italic cross-heading above section 87 substitute “Schemes providing money purchase benefits”.
- 14C In the heading to section 88 (schedules of payments to money purchase schemes: supplementary), for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.”

**Member’s explanatory statement**

*The text in new paragraphs 14A to 14C is taken from paragraphs 8 to 10 of Schedule 4 to the Bill, which is left out by amendment 40.*

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**Pension Schemes Bill, *continued***

Steve Webb

32

Schedule 1, page 19, line 40, at end insert—

“““collective benefit” has the meaning given by section 19 of the Pension Schemes Act 2014;””

**Member’s explanatory statement**

*This text is taken from paragraph 13 of Schedule 4 to the Bill, which is left out by amendment 40. The effect is unchanged.*

Steve Webb

33

Schedule 1, page 19, line 44, at end insert—

“““occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description;””

**Member’s explanatory statement**

*This amends the Pensions Act 1995 to include definitions of terms used in amendment 31.*

Steve Webb

34

Schedule 1, page 20, line 35, at end insert—

“22A In section 17 (power of the Regulator to recover unpaid contributions), in subsection (3)—

- (a) in paragraph (b) of the definition of “due date”, for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”;
- (b) in paragraph (a) of the definition of “employer contribution”, for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.

**Member’s explanatory statement**

*This text is taken from paragraph 11 of Schedule 4 to the Bill, which is left out by amendment 40. The effect is unchanged.*

Steve Webb

35

Schedule 1, page 21, line 16, leave out paragraphs 24 to 28 and insert—

“24 In section 38 (contribution notices where avoidance of employer debt), for subsection (1) substitute—

“(1) This section applies in relation to a pension scheme that is—

- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,

unless subsection (1A) provides for the scheme to be exempt.

(1A) A scheme is exempt from this section if it is—

- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
- (d) a prescribed scheme or a scheme of a prescribed description.

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**Pension Schemes Bill, *continued***

- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
  - (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
- the scheme is to be treated for the purposes of this section and sections 38A to 42 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 25 (1) Section 43 (financial support directions) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies in relation to a pension scheme that is—
- (a) an occupational defined benefits scheme,
  - (b) an occupational shared risk scheme, or
  - (c) an occupational defined contributions scheme,
- unless subsection (1A) provides for the scheme to be exempt.
- (1A) A scheme is exempt from this section if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
  - (b) a scheme under which all the benefits that may be provided are collective benefits,
  - (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
  - (d) a prescribed scheme or a scheme of a prescribed description.
- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
  - (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
- the scheme is to be treated for the purposes of this section and sections 43A to 51 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- (3) In subsection (2), for “such a scheme” substitute “a scheme to which this section applies”.
- 26 In section 52 (restoration orders where transactions at an undervalue), for subsection (1) substitute—
- “(1) This section applies in relation to a pension scheme that is—
- (a) an occupational defined benefits scheme,
  - (b) an occupational shared risk scheme, or
  - (c) an occupational defined contributions scheme,
- unless subsection (1A) provides for the scheme to be exempt.
- (1A) A scheme is exempt from this section if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
  - (b) a scheme under which all the benefits that may be provided are collective benefits,
  - (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
  - (d) a prescribed scheme or a scheme of a prescribed description.

**Pension Schemes Bill, *continued***

- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
  - (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
- the scheme is to be treated for the purposes of this section and sections 53 to 56 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 27 In section 90 (codes of practice), in subsection (2)(i), for “money purchase schemes” substitute “certain schemes”.
- 28 In section 126 (schemes eligible for pension protection), for subsection (1) substitute—
- “(1) Subject to the following provisions of this section, in this Part references to an “eligible scheme” are to a pension scheme that is—
- (a) an occupational defined benefits scheme,
  - (b) an occupational shared risk scheme, or
  - (c) an occupational defined contributions scheme.
- (1A) A scheme is not an eligible scheme if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
  - (b) a scheme under which all the benefits that may be provided are collective benefits,
  - (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
  - (d) a prescribed scheme or a scheme of a prescribed description.
- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
  - (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
- the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 28A For section 221 (application of scheme funding rules) substitute—

**“221 Pension schemes to which this Part applies**

- (1) The provisions of this Part apply to a pension scheme that is—
  - (a) an occupational defined benefits scheme,
  - (b) an occupational shared risk scheme, or
  - (c) an occupational defined contributions scheme,
 unless subsection (2) provides for the scheme to be exempt.
- (2) A scheme is exempt from this Part if it is—
  - (a) a scheme under which all the benefits that may be provided are money purchase benefits,
  - (b) a scheme under which all the benefits that may be provided are collective benefits,
  - (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
  - (d) a prescribed scheme or a scheme of a prescribed description.

**Pension Schemes Bill, continued**

- (3) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
  - (b) the scheme does not fall within paragraph (c) or (d) of subsection (2),
- the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.
- (4) Regulations under subsection (2)(d) may provide for exemptions from all or any of the provisions of this Part, but for the purposes of subsection (3)(b) a scheme falls within subsection (2)(d) only if it is exempt from all of the provisions of this Part.”

**Member’s explanatory statement**

*The text is partly taken from paragraphs 6 and 7 of Schedule 4. It also amends the Pensions Act 2004 to set out how certain powers of the Pensions Regulator apply in respect of collective benefits and makes it clear how the new scheme categories apply in relation to scheme funding and PPF eligibility.*

Steve Webb

36

Schedule 1, page 22, line 9, leave out “in subsection (1)” and insert “subsection (1) is amended as follows.

- ( ) At the appropriate places insert—
- ““collective benefit” has the meaning given by section 19 of the Pension Schemes Act 2014;”
  - ““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2014;”
  - ““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2014;”
  - ““occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description;”
  - ““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2014;”.

**Member’s explanatory statement**

*This amends the Pensions Act 2004 to include definitions of terms used in amendment 35.*

Steve Webb

56

Schedule 1, page 22, line 10, at end insert—

- “( ) In subsection (3)—
- (a) in paragraph (a), after sub-paragraph (vii) insert—
    - “(viii) regulations made under Part 3 of the Pension Schemes Act 2014;”;
  - (b) in paragraph (b), after sub-paragraph (v) insert—
    - “(vi) regulations made under section (*Regulations under Part 3: overriding requirements*) of the Pension Schemes Act 2014.”

**Member’s explanatory statement**

*This inserts additional references into the definition of “relevant legislative provision” in section 318 of the Pensions Act 2004 and is consequential on NC11.*

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**Pension Schemes Bill, continued**

Steve Webb

That Schedule 1 be transferred to the end of line 29 on page 32

**Member's explanatory statement**

*The Bill needs restructuring in light of the proposed Government amendments. There are a number of motions to transfer provisions around. Collectively they are designed to move Part 2 of the Bill to after Part 3 and to move clause 8 and Schedule 1 to the end of what is currently Part 2.*

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Steve Webb

7

Clause 9, page 4, line 36, leave out paragraph (b)

**Member's explanatory statement**

*This amendment removes the power to confer functions on a specified person in connection with the enforcement of regulations made under clause 9. This is because there are existing powers that are considered sufficient and appropriate to deal with enforcement in relation to any breaches of those regulations.*

Steve Webb

8

Clause 9, page 4, line 43, at end insert—

““trustees or managers” means—

- (a) in relation to a scheme established under a trust, the trustees, and
- (b) in relation to any other scheme, the managers.”

**Member's explanatory statement**

*This amendment inserts a definition of “trustees or managers” to clarify that regulations made under clause 9 may impose obligations on trustees in the context of a trust-based scheme, and on managers in the context of a scheme not established under trust.*

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Steve Webb

9

Clause 11, page 5, line 42, leave out “non-salary related benefit,” and insert “benefit falling within subsection (1A),”;

(b) after subsection (1) insert—

“(1A) The following fall within this subsection—

- (a) collective benefits;
- (b) benefits calculated otherwise than by reference to the member's salary.”

**Member's explanatory statement**

*This amendment makes it clear that collective benefits are subject to the 30 day preservation rule for the purposes of obtaining short service benefit.*

Steve Webb

10

Clause 11, page 6, line 15, leave out paragraph (c)

**Member's explanatory statement**

*This is consequential on amendment 9.*

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**Pension Schemes Bill, continued**

Steve Webb

11

Clause 11, page 6, line 47, at end insert—

“( ) In section 74 (computation of short service benefit), in subsections (3) and (4), after “so much of any benefit” insert “, other than collective benefit.””

**Member’s explanatory statement**

*As a general rule schemes are required to provide for short service benefits to be computed on the same basis as long service benefit. In cases where this doesn’t apply benefits are subject to a uniform accrual rule. This amendment ensures collective benefits will not be subject to the uniform accrual requirements*

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Steve Webb

4

Schedule 2, page 26, line 12, at end insert—

“( ) Where this Chapter applies in relation to a benefit payable by virtue of a pension credit right, then—

- (a) if entitlement to the relevant pension credit arose before the 2014 Act commencement date, the benefit is to be treated for the purposes of sections 84(1) and 84B(1) as attributable to pensionable service before that date;
- (b) if entitlement to the relevant pension credit arose on or after the 2014 Act commencement date, the benefit is to be treated for the purposes of sections 84(1) and 84B(1) as attributable to pensionable service on or after that date.”

**Member’s explanatory statement**

*For occupational schemes the new revaluation rules in Schedule 2 depend on when the member’s pensionable service took place. For benefits derived from pension sharing on divorce, this amendment will mean that the revaluation rules depend on when the pension was shared rather than when the pensionable service took place.*

Steve Webb

37

Schedule 2, page 26, line 40, at end insert—

“( ) A benefit of the kind mentioned in section 83(1)(a) that is a collective benefit must be revalued using the default method.”

**Member’s explanatory statement**

*This amendment means that the default method is to be used when revaluing a collective benefit.*

Steve Webb

38

Schedule 2, page 26, line 41, after “section 83(1)(a)” insert “that is not a collective benefit”

**Member’s explanatory statement**

*This amendment means that a collective benefit can only be revalued by the default method. It is consequential on amendment 37.*

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**Pension Schemes Bill, *continued***

Steve Webb

39

Schedule 2, page 26, line 42, after “with” insert “the following provisions of”  
***Member’s explanatory statement***  
*This is consequential on amendment 37. It does not alter the meaning.*

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Steve Webb

57

Schedule 3, page 31, line 15, at end insert—  
 “( ) In subsection (2A)—  
     (a) in paragraph (a), after sub-paragraph (ix) insert—  
         “(x) regulations made under Part 3 of the Pension Schemes Act 2014;”;  
     (b) in paragraph (b), after sub-paragraph (vii) insert—  
         “(viii) regulations made under section (*Regulations under Part 3: overriding requirements*) of the Pension Schemes Act 2014.””

***Member’s explanatory statement***  
*This inserts additional references into the definition of “relevant legislative provision” in section 94 of the Pension Schemes Act 1993 and is consequential on NC11.*

Steve Webb

5

Schedule 3, page 32, line 29, at end insert—  
 “*Pension credits: transfer values*

10 Chapter 2 of Part 4A of the Pension Schemes Act 1993 (pension credit benefit:  
 transfer values) is amended as follows.

11 In section 101F (power to give transfer notice), in subsection (4)(a), for “salary  
 related occupational pension scheme” substitute “scheme to which section  
 101H applies”.

12 In section 101G (restrictions on power to give transfer notice), in subsection  
 (1), for “salary related occupational pension scheme” substitute “scheme to  
 which section 101H applies”.

13 (1) Section 101H (salary related schemes: statements of entitlement) is amended  
 as follows.

(2) For subsection (1) substitute—  
 “(1) This section applies to a qualifying scheme that is—  
     (a) a defined benefits scheme,  
     (b) a shared risk scheme, or  
     (c) a defined contributions scheme that is not a scheme under  
         which all the benefits that may be provided are money  
         purchase benefits,  
 other than a scheme that falls within a prescribed class.

(1A) The trustees or managers of a scheme to which this section applies  
 must, on the application of any eligible member, provide the member  
 with a written statement of the amount of the cash equivalent of the  
 member’s pension credit benefit under the scheme.”

**Pension Schemes Bill, continued**

- (3) In subsections (2) and (3), for “(1)” substitute “(1A)”.
- (4) In subsection (4)—
- (a) for “to whom subsection (1)” substitute “of a scheme to which this section”;
  - (b) for “that subsection” substitute “subsection (1A)”.
- (5) In the heading, for “Salary related schemes” substitute “Schemes with a promise or target”.
- 14 (1) Section 101J (time for compliance with transfer notice) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) in the case of a scheme to which section 101H applies, within 6 months of the valuation date, and
  - (b) in the case of any other scheme, within 6 months of the date on which the notice is given.”
- (3) For subsection (7) substitute—
- “(7) In subsection (1)(a), “valuation date” means the date by reference to which the amount shown in the relevant statement under section 101H is determined.”
- 15 (1) Section 101P (interpretation) is amended as follows.
- (2) Omit subsection (2).
- (3) In subsection (3), for “salary related occupational pension scheme” substitute “scheme to which that section applies”.

**Member’s explanatory statement**

*Schedule 3 to the Bill makes changes to the general rules about transfers from one pension scheme to another (for reasons related to the new definitions in Part 1). This amendment makes similar changes for cases where benefits are derived from pension sharing on divorce.*

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Steve Webb

12

Clause 18, page 8, line 35, at end insert—

- “( ) In section 67 (the subsisting rights provisions)—
- (a) in subsection (3), omit paragraph (b) and the “or” before it;
  - (b) after subsection (3) insert—
- “(3A) Regulations may provide for cases in which the subsisting rights provisions do not apply.””

**Member’s explanatory statement**

*This amendment relates to the subsisting rights provisions. The amendment replaces the existing regulation making power with a broader power to provide for cases in which the subsisting rights provisions do not apply, so for example, in relation to collective benefits.*

Steve Webb

13

Clause 18, page 9, line 3, at end insert—

- “(ab) on taking effect would or might result in any subsisting right of a member of the scheme which is a right to retirement income in respect of which there is a pensions promise becoming, or being replaced with, a right to benefits other than retirement income,

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**Pension Schemes Bill, continued**

- (ac) on taking effect would or might result in any subsisting right of—
- (i) a member of the scheme, or
  - (ii) a survivor of a member of the scheme,
- being replaced with a right or entitlement to collective benefits under the scheme rules.”.

**Member’s explanatory statement**

*The amendment relates to the subsisting rights provisions so that any proposal to modify a scheme which would or might replace a right to income with a right to a non-income benefit would be a protected modification. The text in (ab) is taken from paragraph 3(2) of Schedule 4 to the Bill, which is left out by amendment 40.*

Steve Webb

14

Clause 18, page 9, line 3, at end insert—

“( ) In subsection (3)(b) of that section, after “rules” insert “, other than a pension that is a collective benefit”.

**Member’s explanatory statement**

*This text is taken from paragraph 3(3) of Schedule 4 to the Bill, which is left out by amendment 40. The effect is unchanged.*

Steve Webb

15

Clause 18, page 9, line 4, after “(aa)” insert “, (ab), (ac)”

**Member’s explanatory statement**

*This is consequential on amendment 13.*

Steve Webb

42

Clause 18, page 9, line 4, at end insert—

“( ) In subsection (9)—

(a) in paragraph (a), after sub-paragraph (vii) insert—

“(viii) regulations made under Part 3 of the Pension Schemes Act 2014;”;

(b) in paragraph (b), after sub-paragraph (v) insert—

“(vi) regulations made under section (*Regulations under Part 3: overriding requirements*) of the Pension Schemes Act 2014.””

**Member’s explanatory statement**

*This inserts additional references into the definition of “relevant legislative provision” in section 67A of the Pensions Act 1995 and is consequential on NC11.*

Steve Webb

16

Clause 18, page 9, line 5, leave out “place” and insert “places”

**Member’s explanatory statement**

*This paves the way for amendment 17.*

Steve Webb

17

Clause 18, page 9, line 8, at end insert—

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**Pension Schemes Bill, continued**

““retirement income” has the meaning given by section 7 of the Pension Schemes Act 2014;”.”

**Member’s explanatory statement**

*This defines “retirement income”, which is used in amendment 13.*

Steve Webb

That clauses 9 to 18 be transferred to the end of line 6 on page 15

**Member’s explanatory statement**

*The Bill needs restructuring in light of the proposed Government amendments. There are a number of motions to transfer provisions around. Collectively they are designed to move Part 2 of the Bill to after Part 3 and to move clause 8 and Schedule 1 to the end of what is currently Part 2.*

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Steve Webb

43

Clause 20, page 9, line 32, leave out “is equal to or higher than a level of probability” and insert “falls within a range”

**Member’s explanatory statement**

*This amendment and amendments 46, 51, 52 and 53 replace references to a required probability level with references to a specified range. Here, clause 20(2)(c) is amended so that regulations may require initial targets in relation to collective benefits to be set at a level which ensures that the probability of meeting the targets falls within a specified range.*

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Steve Webb

44

Clause 22, page 10, line 28, leave out “The regulations” and insert “Regulations under subsection (1)”

**Member’s explanatory statement**

*This is intended to clarify that in clause 22(3) the reference to “The regulations” is to regulations under subsection (1).*

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Steve Webb

45

Page 11, line 6, leave out Clause 24

**Member’s explanatory statement**

*The material currently in clause 24 is replaced by amendment NC7.*

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Steve Webb

46

Clause 26, page 11, line 37, leave out “is equal to or higher or lower than the

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**Pension Schemes Bill, *continued***

required probability” and insert “falls within the required range or is above or below it”  
***Member’s explanatory statement***

*This amendment follows the approach taken in clause 20. It amends one of the powers in clause 26 so that regulations may require an actuary to certify that the probability of a scheme meeting targets in relation to collective benefits falls within, above or below a specified range of probabilities.*

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Steve Webb

47

Clause 27, page 12, line 5, leave out “The regulations” and insert “Regulations under subsection (1)”

***Member’s explanatory statement***

*This amendment is related to amendment 48. The effect is unchanged.*

Steve Webb

48

Clause 27, page 12, line 9, at end insert—

“( ) Regulations may—

- (a) make provision about the assets to be taken into account for the purposes of a valuation report;
- (b) require the value attributed to the assets to be reduced by the amount of any liabilities in respect of administrative expenses or other specified matters.”

***Member’s explanatory statement***

*This amendment inserts a regulation-making power to make provision as to which assets should be taken into account for the purposes of a valuation report. This amendment also provides that the regulations may require the value of the assets to be reduced by the amount of any liabilities in respect of administrative expenses or other matters specified in regulations.*

Steve Webb

49

Clause 27, page 12, line 10, leave out “The regulations” and insert “Regulations”

***Member’s explanatory statement***

*This amendment is consequential on amendment 48. The effect is unchanged.*

Steve Webb

50

Clause 27, page 12, line 11, leave out “methods or assumptions determined in accordance with the regulations” and insert “specified requirements imposed by regulations under this section”

***Member’s explanatory statement***

*This amendment takes account of amendment 48 and provides that regulations may require an actuary preparing a valuation report to certify that specified requirements imposed by regulations under clause 27 have been followed.*

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 Pension Schemes Bill, *continued*

Steve Webb

51

Clause 28, page 12, line 26, leave out “lower than the required probability” and insert “below the required range”

**Member’s explanatory statement**

*This amendment follows the approach taken in clause 20; it provides that there is a “deficit” in respect of a collective benefit if the probability of the scheme meeting a target in relation to the benefit is below the required range.*

Steve Webb

52

Clause 28, page 12, line 29, leave out “higher than the required probability” and insert “above the required range”

**Member’s explanatory statement**

*This amendment follows the approach taken in clause 20; it provides that there is a “surplus” in respect of a collective benefit if the probability of the scheme meeting a target in relation to the benefit is above the required range.*

Steve Webb

18

Clause 32, page 14, line 4, leave out “the scheme” and insert “an”

**Member’s explanatory statement**

*The purpose of this amendment and amendments 20, 21, 22, 23 and 24 is to replace references in clause 32 to “the scheme actuary” with references to “an actuary”. This follows the approach taken in clauses 20 and 26. Amendment 19 is also related as it is about the actuary’s qualifications.*

Steve Webb

19

Clause 32, page 14, line 5, at end insert—

“( ) The regulations may, in particular, require the trustees or managers to obtain the advice from an actuary who has specified qualifications or meets other specified requirements.”

**Member’s explanatory statement**

*This amendment gives a power to require trustees or managers to obtain advice from an actuary who has certain qualifications or who meets other requirements before making certain decisions or taking certain steps.*

Steve Webb

20

Clause 32, page 14, line 7, leave out “the scheme” and insert “an”

**Member’s explanatory statement**

*See explanatory statement to amendment 18.*

Steve Webb

21

Clause 32, page 14, line 8, leave out “those matters” and insert “matters in accordance with the regulations”

**Member’s explanatory statement**

*See explanatory statement to amendment 18.*

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**Pension Schemes Bill, *continued***

- Steve Webb 22
- Clause 32, page 14, line 9, leave out “the scheme” and insert “an”  
***Member’s explanatory statement***  
*See explanatory statement to amendment 18.*
- Steve Webb 23
- Clause 32, page 14, line 10, leave out “those matters” and insert “matters in accordance with the regulations”  
***Member’s explanatory statement***  
*See explanatory statement to amendment 18.*
- Steve Webb 24
- Clause 32, page 14, line 11, leave out subsection (3)  
***Member’s explanatory statement***  
*See explanatory statement to amendment 18.*
- 
- Steve Webb 25
- Clause 35, page 14, line 21, leave out paragraph (a)  
***Member’s explanatory statement***  
*This amendment removes the power to confer functions on a specified person in connection with the enforcement of regulations made under Part 3. This is because there are existing powers that are considered sufficient and appropriate to deal with enforcement in relation to any breaches of those regulations.*
- 
- Steve Webb 53
- Clause 36, page 14, line 36, leave out “probability” means the level of probability” and insert “range”, in relation to a level of probability, means the range”  
***Member’s explanatory statement***  
*To reflect the changes made by amendments 43, 46, 51 and 52, this amendment removes the definition of “required probability” and inserts a definition of a “required range”.*
- Steve Webb 26
- Clause 36, page 14, line 38, at end insert—  
 ““trustees or managers” means—  
 (c) in relation to a scheme established under a trust, the trustees, and  
 (d) in relation to any other scheme, the managers;”  
***Member’s explanatory statement***  
*This amendment inserts a definition of “trustees or managers” to clarify that regulations made*

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**Pension Schemes Bill, continued**

*under Part 3 may impose obligations on trustees in the context of a trust-based scheme, and on managers in the context of a scheme not established under trust.*

---

Steve Webb

27

Page 15, line 5, leave out Clause 37

***Member's explanatory statement***

*This amendment leaves out clause 37. Clause 37 introduces Schedule 4 but is no longer needed because Schedule 4 is itself being left out - see amendment 40. Many of the amendments made by Schedule 4 are added back in to Schedule 1 or other places in the Bill.*

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Steve Webb

40

Page 32, line 30, leave out Schedule 4

***Member's explanatory statement***

*Many of the amendments made by Schedule 4 are added back in to other places in the Bill.*

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Steve Webb

1

Clause 41, page 16, line 15, leave out "or repeal" and insert ", repeal or otherwise modify"

***Member's explanatory statement***

*This amendment ensures that where regulations under clause 40 make consequential provision modifying primary legislation the regulations will be subject to the affirmative procedure.*

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Steve Webb

54

Clause 41, page 16, line 20, at end insert—

“( ) Subsection (4) does not apply to a statutory instrument containing regulations under section 44(2) or (4) only.”

***Member's explanatory statement***

*This ensures that a statutory instrument containing commencement regulations or making transitional etc provision is not subject to any Parliamentary procedure. This brings the Bill into line with the usual approach.*

---

Steve Webb

2

Clause 43, page 17, line 5, at end insert—

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**Pension Schemes Bill, continued**

“( ) Section (*Extension to Scotland of certain provisions about same sex marriage*) extends to Scotland only.”

**Member’s explanatory statement**

*The effect of this amendment is that the new clause inserted by amendment NCI extends to Scotland only.*

---

Steve Webb

3

Clause 44, page 17, line 9, at end insert—

“( ) Sections (*Judicial pensions: pension sharing on divorce etc*) and (*Pension scheme for fee-paid judges*) and Schedule (*Amendments to do with section (Pension scheme for fee-paid judges)*) come into force on the day on which this Act is passed.”

**Member’s explanatory statement**

*This ensures that the amendments relating to judicial pensions come into force on the day on which the Bill receives Royal Assent.*

Steve Webb

28

Clause 44, page 17, line 9, at end insert—

“( ) Section (*Pension sharing and normal benefit age*) comes into force on 1 April 2015.”

**Member’s explanatory statement**

*This ensures that the new clause relating to pension sharing and normal benefit age (NC4) comes into force on 1 April 2015.*

Steve Webb

58

Clause 44, page 17, line 12, after “3” insert “and section (*Pensions guidance*) and Schedule (*Pensions guidance*)”

**Member’s explanatory statement**

*This amendment provides for the commencement of NC12 and NS2 by regulations made by the Secretary of State.*

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NEW CLAUSES

Steve Webb

NC1

To move the following Clause—

**“Extension to Scotland of certain provisions about same sex marriage**

Sections 17(11), 24D(5), 37(7) and 38A of the Pension Schemes Act 1993 (regulations about relevant gender change cases) extend to Scotland.”

**Member’s explanatory statement**

*This amendment extends certain provisions in the Pension Schemes Act 1993, that were inserted*

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**Pension Schemes Bill, continued**

*by the Marriage (Same Sex Couples) Act 2013, to Scotland to allow regulations made under section 38A of the Pension Schemes Act to extend to Scotland.*

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Steve Webb

NC2

To move the following Clause—

**“Judicial pensions: pension sharing on divorce etc**

In paragraph 1(5) of Schedule 2A to the Judicial Pensions and Retirement Act 1993 (pension credits), for the words from “in respect of the office” to the end substitute “in respect of the rights from which the pension credit is derived”.”

***Member’s explanatory statement***

*This corrects paragraph 1(5) of Schedule 2A to the Judicial Pensions and Retirement Act 1993, which is about funding of pensions shared on divorce etc. The amendment ensures that the Act works for cases where pension sharing is activated after a person has left judicial office.*

---

Steve Webb

NC3

To move the following Clause—

**“Pension scheme for fee-paid judges**

- (1) In the Judicial Pensions and Retirement Act 1993, after Part 1 insert—

“PART 1A

FEE-PAID JUDGES

**18A Pension scheme for fee-paid judges**

- (1) The appropriate Minister may by regulations establish a scheme for the payment of pensions and other benefits to or in respect of fee-paid judges.
- (2) The scheme may make provision for payments to or in respect of a person in relation to the person’s service before the scheme is established.
- (3) No benefits are to be provided under a new public service pension scheme in relation to service in relation to which benefits are to be provided under a scheme under this section.  
 “New public service pension scheme” means a scheme under—
  - (a) section 1 of the Public Service Pensions Act 2013, or
  - (b) section 1 of the Public Service Pensions Act (Northern Ireland) 2014 (c. 2).
- (4) Regulations under this section may, in particular, include provision corresponding or similar to—
  - (a) any provision made by Part 1, section 20 or Schedule 2 or 2A;

**Pension Schemes Bill, *continued***

- (b) any provision that may be made by regulations under Part 1, section 20 or Schedule 2 or 2A.
- (5) In this section—  
 “judge” means a person who holds an office specified in the regulations;  
 “fee-paid judge” means a judge whose service is remunerated by the payment of fees (as opposed to the payment of a salary).”
- (2) Schedule (*Amendments to do with section (Pension scheme for fee-paid judges)*) contains related amendments.”

***Member’s explanatory statement***

*This clause allows a pension scheme to be established for fee-paid judges, as required by case law. It is aimed at old and transitional cases. Pensions for fee-paid judges will in future be governed by a new scheme under the recent public service pensions legislation.*

Steve Webb

NC4

To move the following Clause—

**“Pension sharing and normal benefit age**

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 101B (interpretation), for the definition of “normal benefit age” substitute—  
 ““normal benefit age”, in relation to a pension credit benefit for a member of a scheme, is the earliest age at which the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill-health or otherwise);  
 “normal pension age”, in relation to a benefit for a member of a scheme, means the earliest age at which the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill-health or otherwise);”.
- (3) In section 101C (basic principle as to pension credit benefit), for subsection (1) substitute—  
 “(1) The normal benefit age in relation to a pension credit benefit for a member of a scheme—  
 (a) must not be lower than 60, and  
 (b) must not be higher than the permitted maximum.  
 (1A) The “permitted maximum” is 65 or, if higher, the highest normal pension age for any benefit that is payable under the scheme to or in respect of any of the members by virtue of rights which are not attributable (directly or indirectly) to a pension credit.””

***Member’s explanatory statement***

*This amendment allows schemes to increase beyond 65 the age at which a pension shared on divorce can first be put into payment but only if the scheme has a normal pension age above 65 for any benefits payable under the scheme.*

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**Pension Schemes Bill, *continued***

Steve Webb

NC5

To move the following Clause—

**“Duty to act in the best interests of members**

- (1) Regulations may impose a duty on the managers of a relevant non-trust based scheme to act in the best interests of members when taking decisions of a specified description.
- (2) In this section “relevant non-trust based scheme” means a non-trust based scheme that is—
  - (a) a shared risk scheme, or
  - (b) a defined contributions scheme under which any of the benefits that may be provided are collective benefits.
- (3) Regulations under this section—
  - (a) may provide for the duty to act in the best interests of members to override obligations that are inconsistent with that duty (including obligations imposed by any instrument, enactment or rule of law), but
  - (b) do not otherwise affect any duty that might arise apart from this section.
- (4) Regulations under this section may provide for the consequences of a manager breaching (or threatening to breach) the duty to act in the best interests of members to be the same as the consequences of breaching (or threatening to breach) a fiduciary duty owed by the manager to the members and, accordingly, for the duty to be enforceable in the same way as a fiduciary duty.
- (5) In this section—
  - “collective benefit” has the meaning given by section 19;
  - “defined contributions scheme” has the meaning given by section 4;
  - “non-trust based scheme” means a scheme that is not established under a trust;
  - “shared risk scheme” has the meaning given by section 3.”

***Member’s explanatory statement***

*This amendment inserts a new power to make regulations which may impose a duty on managers of non-trust based schemes to act in members’ best interests when taking certain specified decisions. This duty may apply in relation to shared-risk schemes and schemes providing collective benefits.*

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Steve Webb

NC6

To move the following Clause—

**“Collective benefits exempt from indexation**

- (1) In section 51 of the Pensions Act 1995 (annual increase in rate of pension)—
  - (a) in subsection (1), for “Subject to subsections (6) and (7)” substitute “Subject to subsections (6) to (7A)”; and
  - (b) after subsection (7) insert—
    - “(7A) This section does not apply to any pension, or part of a pension, that is a collective benefit.”

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**Pension Schemes Bill, *continued***

- (2) Omit section 21(2) of the Pensions Act 2011, which is no longer needed given subsection (1).”

***Member’s explanatory statement***

*This text is taken from paragraphs 1 and 2 of Schedule 4 to the Bill, which is left out by amendment 40. The effect is unchanged.*

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Steve Webb

NC7

To move the following Clause—

**“Investment powers**

- (1) Regulations may make provision about—
- (a) the investment powers of the trustees or managers of a pension scheme in connection with collective benefit investments;
  - (b) their powers to delegate decisions in connection with collective benefit investments (including provision as to liability for delegated decisions);
  - (c) the investment powers of any person to whom they have delegated decisions in connection with collective benefit investments.
- (2) The regulations may, in particular—
- (a) make provision corresponding or similar to any provision made by section 34 or 36 of the Pensions Act 1995 (powers of investment and delegation and choice of investments for occupational trust-based schemes);
  - (b) disapply those sections in relation to collective benefit investments.”

***Member’s explanatory statement***

*This replaces clause 24 (which is left out by amendment 45) and contains additional material about investment powers in relation to collective benefits.*

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Steve Webb

NC8

To move the following Clause—

**“Restriction on borrowing by trustees or managers**

- (1) Regulations may prohibit a person to whom this section applies from borrowing money or acting as a guarantor except in specified cases.
- (2) This section applies to—
- (a) the trustees or managers of a pension scheme under which any of the benefits that may be provided are collective benefits, and
  - (b) any person to whom they have delegated decisions about collective benefit investments.”

***Member’s explanatory statement***

*Section 36A of the Pensions Act 1995 contains a similar power in respect of occupational trust-based schemes.*

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**Pension Schemes Bill, *continued***

Steve Webb

NC9

To move the following Clause—

**“Investment powers: duty of care**

- (1) Regulations may make provision to prevent any instrument or agreement from excluding or restricting any liability of the trustees or managers of a pension scheme, or any person to whom they have delegated decisions, in respect of the performance of investment functions involving collective benefit investments.
- (2) The regulations may, in particular—
  - (a) make provision corresponding or similar to any provision made by section 33 of the Pensions Act 1995 (duty of care in respect of investment powers for occupational trust-based schemes);
  - (b) disapply that section in relation to collective benefit investments.”

***Member’s explanatory statement***

*This amendment outlines a new regulation-making power to prevent liability being restricted in respect of investment functions in schemes offering collective benefits. The regulations may make corresponding or similar provision to section 33 of the Pensions Act 1995.*

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Steve Webb

NC10

To move the following Clause—

**“Payment of amounts out of collective benefit funds**

- (1) Regulations must prohibit the making of payments out of funds held for the purposes of providing collective benefits except for—
  - (a) payments made for the purpose of providing those benefits, or
  - (b) other specified payments.
- (2) The regulations may, in particular, make provision corresponding or similar to any provision made by section 37 of the Pensions Act 1995 (payment of surplus to employer in the case of an occupational trust-based scheme).”

***Member’s explanatory statement***

*The amendment requires regulations to be made preventing payments being made out of funds held for the purposes of providing collective benefits subject to specified exceptions.*

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**Pension Schemes Bill, *continued***

Steve Webb

NC11

To move the following Clause—

**“Regulations under Part 3: overriding requirements**

Regulations under this Part may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.”

***Member’s explanatory statement***

*The amendment allows regulations to override the scheme rules in cases where there is a conflict.*

---

Steve Webb

NC12

To move the following Clause—

**“Pensions guidance**

Schedule (*Pensions Guidance*) contains amendments of the Financial Services and Markets Act 2000, and of other legislation, that are about the giving of pensions guidance to pension scheme members with a right or entitlement to cash balance benefits or other money purchase benefits.”

***Member’s explanatory statement***

*This amendment introduces the Schedule inserted by amendment NS2.*

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***NEW SCHEDULE***

Steve Webb

NS1

To move the following Schedule—

“AMENDMENTS TO DO WITH SECTION (*PENSION SCHEME FOR FEE-PAID JUDGES*)

*Pensions (Increase) Act 1971 (c. 56)*

- 1 The Pensions (Increase) Act 1971 is amended as follows.
- 2 In section 19(2)(a) (extent to Northern Ireland)—
  - (a) after “or section” insert “18A or”, and
  - (b) after “section 10 of that Act” insert “or provision made under section 18A of that Act that is corresponding or similar to the provision that may be made by regulations under section 10 of that Act”.
- 3 In Schedule 2 (official pensions), after paragraph 4A insert—
 

“4AA A pension payable under a scheme made under section 18A of the Judicial Pensions and Retirement Act 1993, other than a pension payable under or by virtue of provision that is corresponding or similar to the provision that may be made by regulations under section 10 of that Act.”

**Pension Schemes Bill, continued***Judicial Pensions and Retirement Act 1993 (c. 8)*

- 4 The Judicial Pensions and Retirement Act 1993 is amended as follows.
- 5 In section 22 (application of the Pensions (Increase) Act 1971 to Northern Ireland), in subsection (2)—
- (a) after “shall include” insert “—
- (a) ”;
- (b) at the end insert “; and
- (b) pensions payable under a scheme made under section 18A above, other than pensions payable under or by virtue of provision that is corresponding or similar to the provision that may be made by regulations under section 10 above.”
- 6 (1) Section 28 (funding arrangements) is amended as follows.,
- (2) In subsection (2) (benefits payable out of money provided by Parliament), after paragraph (a) (but before the “and” at the end) insert—
- “(aa) any pension or other benefits payable under a scheme made under section 18A above;”.
- (3) In subsection (7), for “section 10 above” substitute “—
- (a) section 10 above, or
- (b) provision made under section 18A above that is corresponding or similar to the provision that may be made by regulations under section 10 above.”
- 7 In section 28A (contributions in respect of Northern Ireland judges), at the end insert “or as a fee-paid judge in Northern Ireland (within the meaning given by section 18A)”.

***Member’s explanatory statement***

*These amendments in this new Schedule relate to the pension scheme for fee-paid judges - see amendment NC3. Among other things, they deal with inflation increases.*

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Steve Webb

NS2

To move the following Schedule—

## “PENSIONS GUIDANCE

- 1 The Financial Services and Markets Act 2000 is amended as follows.
- 2 After section 333 insert—

## “PART 20A

## PENSIONS GUIDANCE

**333A Introduction and definitions**

- (1) This Part is about the giving of pensions guidance.
- (2) “Pensions guidance” means guidance given for the purpose of helping a member of a pension scheme to make decisions about what to do with the cash balance benefits or other money purchase benefits that may be provided to the member.

**Pension Schemes Bill, *continued***

- (3) In this Part—
- “cash balance benefits” has the meaning given by section 152(5) of the Finance Act 2004;
  - “money purchase benefits” has the meaning given by section 152(4) of the Finance Act 2004;
  - “pensions guidance” has the meaning given by subsection (2);
  - “pension scheme” has the meaning given by section 150(1) of the Finance Act 2004.

*Giving of pensions guidance***333B Treasury’s role in relation to pensions guidance**

- (1) The Treasury must take such steps as they consider appropriate to ensure that people have access to pensions guidance.
- (2) The Treasury may—
  - (a) seek to increase awareness of the availability of the guidance;
  - (b) undertake or commission research relating to the giving of the guidance.

**333C Giving of pensions guidance**

- (1) The bodies listed in subsection (2) are to give pensions guidance in accordance with arrangements made with the Treasury.
- (2) Those bodies are—
  - (a) the Pensions Advisory Service Limited;
  - (b) the National Association of Citizens Advice Bureaux;
  - (c) the Scottish Association of Citizens Advice Bureaux;
  - (d) the Northern Ireland Association of Citizens Advice Bureaux.
- (3) The bodies listed in subsection (2) may give pensions guidance by arranging for it to be given by another person (including another listed body).
- (4) The National Association of Citizens Advice Bureaux, the Scottish Association of Citizens Advice Bureaux and the Northern Ireland Association of Citizens Advice Bureaux may jointly carry out their functions of giving pensions guidance.
- (5) The Treasury may by regulations repeal one or more of paragraphs (a) to (d) of subsection (2).
- (6) Regulations under subsection (5) may make consequential amendments of this Act.

**333D Financial assistance to bodies involved in giving pensions guidance**

- (1) The Treasury may make grants or loans or give any other form of financial assistance to—
  - (a) the Pensions Advisory Service Limited;
  - (b) the Northern Ireland Association of Citizens Advice Bureaux.
 (For the power to make grants to the National Association of Citizens Advice Bureaux and the Scottish Association of Citizens Advice Bureaux see section 40A of the Consumers, Estate Agents and Redress Act 2007.)

**Pension Schemes Bill**, *continued*

- (2) Any grant, loan or other form of financial assistance under subsection (1)—
  - (a) is to be made or given for the purpose of enabling the body to carry out its functions under section 333C(1), and
  - (b) may be made or given subject to such other terms as the Treasury consider appropriate.
- (3) Any expenses incurred by the Treasury under this section are to be met out of money provided by Parliament.

*Designation of guidance providers***333E Designation of providers of pensions guidance**

- (1) In this Part “designated guidance provider” means—
  - (a) the Pensions Advisory Service Limited,
  - (b) the National Association of Citizens Advice Bureaux,
  - (c) the Scottish Association of Citizens Advice Bureaux,
  - (d) the Northern Ireland Association of Citizens Advice Bureaux, or
  - (e) a person designated by the Treasury as someone who must, in giving pensions guidance, comply with standards set by the FCA under section 333G.
- (2) Before designating a person under subsection (1)(e), the Treasury must—
  - (a) consult the FCA,
  - (b) notify the person to be designated, and
  - (c) consider any representations made.
- (3) The Treasury may revoke a designation under subsection (1)(e).
- (4) The Treasury must give notice in writing of a designation under subsection (1)(e) or the revocation of a designation under subsection (3) to the person designated or (as the case may be) the person whose designation has been revoked.
- (5) The Treasury must send a copy of a notice given under subsection (4) to—
  - (a) all other designated guidance providers, and
  - (b) the FCA.
- (6) The Treasury must from time to time publish, in such manner as they consider appropriate, a list of the persons who are designated under subsection (1)(e).

*False claims when giving pensions guidance***333F Offence of falsely claiming to be giving pensions guidance under Treasury arrangements**

- (1) It is an offence for a person who is not giving pensions guidance under arrangements made with the Treasury—
  - (a) to describe himself (in whatever terms) as a person who is doing so, or

**Pension Schemes Bill, *continued***

- (b) to behave, or otherwise hold himself out, in a manner which indicates (or which is reasonably likely to be understood as indicating) that he is doing so.
- (2) For the purposes of subsection (1), pensions guidance given by a designated guidance provider is given under arrangements made with the Treasury.
- (3) In proceedings for an offence under this section it is a defence for the accused to show that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (4) A person guilty of an offence under this section is liable on summary conviction—
  - (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine, or both;
  - (b) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both;
  - (c) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.
- (5) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subsection (4)(a) to 51 weeks is to be read as a reference to 6 months.
- (6) In relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (4)(a) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.

*Standards for giving of pensions guidance by designated guidance providers***333G Standards for giving of pensions guidance by designated guidance providers**

- (1) The FCA must from time to time set standards for the giving of pensions guidance by designated guidance providers.
- (2) A failure by a designated guidance provider to comply with a standard set under this section is actionable at the suit of a private person who suffers loss as a result of the failure, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (3) In subsection (2) “private person” has the same meaning as in section 138D.
- (4) Standards set under this section may provide for subsection (2) not to apply to a failure to comply with a specified provision of the standards.
- (5) The procedural provisions of this Act in the first column of the table apply to the setting of standards under this section as if references in those provisions to the making of rules (however expressed) were references to the setting of standards and with the additional modifications in the second column.

Pension Schemes Bill, *continued*

<i>Procedural provisions of this Act</i>	<i>Additional modifications</i>
Sections 138G and 138H	Treat the references to a rule-making instrument as references to a standard-making instrument.
Section 138I	Treat— <ul style="list-style-type: none"> <li>(a) subsection (1)(a) as if it were omitted;</li> <li>(b) subsection (2)(d) as if it referred to an explanation of the FCA's reasons for believing that setting the proposed standards would secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.</li> </ul>
Section 138L	Treat the reference in subsection (1) to consumers (as defined in section 425A) as a reference to recipients of pensions guidance from designated guidance providers.

**333H Monitoring of compliance with standards by designated guidance providers**

- (1) The FCA must maintain arrangements for monitoring compliance by designated guidance providers with the standards set under section 333G.
- (2) Sections 165 and 167 apply for the purpose of enabling the FCA to monitor compliance but as if—
  - (a) references to an authorised person or a former authorised person were references to a designated guidance provider or a former designated guidance provider;
  - (b) section 165(7)(b) to (d) were omitted;
  - (c) the reference in section 167(5A)(b) to the FCA or the PRA were a reference to the FCA.
- (3) Section 175 applies as if a power that the FCA or an investigator has by virtue of subsection (2) were a power under Part 11.
- (4) Section 177 applies as if a requirement imposed by virtue of subsection (2) were a requirement imposed under Part 11.
- (5) References in a provision of Part 11 to section 165, 167, 175 or 177 include the relevant section as applied with modifications by this section.

**Pension Schemes Bill, *continued*****333I Failure by designated guidance providers to comply with standards: FCA recommendations**

- (1) If the FCA considers that a designated guidance provider has failed to comply with a standard set under section 333G the FCA may—
  - (a) recommend steps that the designated guidance provider might take to prevent the continuance or recurrence of the failure or to make redress to those affected by the failure, and
  - (b) having made such a recommendation, recommend that the Treasury give a direction under section 333L.
- (2) The FCA must publish a recommendation made under subsection (1)(b) unless the FCA considers that to do so—
  - (a) would be against the public interest, or
  - (b) would be inappropriate for some other reason.
- (3) If the condition in subsection (2)(a) or (b) is satisfied in relation to a recommendation but would not be satisfied if the FCA published part only of the recommendation, the FCA may publish that part.

**333J FCA policy on making recommendations under section 333I**

- (1) The FCA must prepare and issue a statement of its policy with respect to the making of recommendations under section 333I.
- (2) The FCA may at any time alter or replace a statement issued under this section.
- (3) If a statement issued under this section is altered or replaced, the FCA must issue the altered or replaced statement.
- (4) The FCA may issue a statement under this section only with the consent of the Treasury.
- (5) A statement issued under this section must be published by the FCA in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (6) The FCA may charge a reasonable fee for providing a person with a copy of the statement.

**333K FCA policy on making recommendations under section 333I: procedure**

- (1) Before issuing a statement under section 333J, the FCA must—
  - (a) consult the Treasury, and
  - (b) publish a draft of the proposed statement in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the FCA within a specified time.
- (3) Before issuing the proposed statement, the FCA must have regard to any representations made to it within the specified time.
- (4) If the FCA issues the proposed statement it must publish an account, in general terms, of—
  - (a) the representations made to it within the specified time, and

**Pension Schemes Bill, *continued***

- (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1)(b) in a way which is, in the opinion of the FCA, significant, the FCA must (in addition to complying with subsection (4)) publish details of the difference.
- (6) The FCA may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1)(b).
- (7) This section also applies to a proposal to alter or replace a statement.

**333L Failure by designated guidance providers to comply with standards: Treasury directions**

- (1) If the Treasury consider that a designated guidance provider has failed to comply with a standard set under section 333G the Treasury may direct the provider to take such steps as the Treasury consider appropriate—
  - (a) to prevent the continuance or recurrence of the failure;
  - (b) to make redress to those affected by the failure.
- (2) The Treasury may give a direction under subsection (1) only if the FCA has made a recommendation under section 333I(1)(b) (although the terms of the direction need not be the same as that recommended by the FCA).
- (3) The Treasury must—
  - (a) give notice in writing of a direction under subsection (1), and
  - (b) send a copy of the notice to the FCA.
- (4) The notice must inform the designated guidance provider that representations about why the direction should not be published may be made to the Treasury within a specified time.
- (5) Once the time specified under subsection (4) has elapsed, the Treasury must publish the direction unless—
  - (a) the Treasury consider that to do so would be against the public interest;
  - (b) having considered representations made by the designated guidance provider within the specified time, the Treasury consider that it would be inappropriate to do so for some other reason.
- (6) If the condition in subsection (5)(a) or (b) is satisfied in relation to a direction but would not be satisfied if the Treasury published part only of the direction, the Treasury may publish that part.
- (7) A direction under subsection (1) is enforceable, on an application made by the Treasury, by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

**333M Directions to designated guidance providers under section 333L: relationship with power to revoke a designation**

- (1) The power conferred by section 333L(1) is exercisable in addition to, or instead of, the power conferred by section 333E(3) to revoke a designation.

**Pension Schemes Bill, *continued***

- (2) If the power in section 333E(3) is exercised before the power in section 333L(1) the reference in section 333L(1) to a designated guidance provider is to be read as a reference to a person who, at the time of the failure to comply, was a designated guidance provider.
- (3) Subsection (1) does not limit the grounds on which the power in section 333E(3) may be exercised.

*FCA's duties and power to give guidance***333N FCA's duties**

- (1) The FCA must discharge its general pensions guidance functions with a view to securing an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
- (2) In discharging its general pensions guidance functions the FCA must have regard to—
  - (a) its strategic and operational objectives in section 1B(2) and (3), and
  - (b) the regulatory principles in section 3B.
- (3) In this section the FCA's "general pensions guidance functions" means its functions of—
  - (a) setting standards under section 333G,
  - (b) issuing statements under section 333J,
  - (c) giving general guidance under section 333O (see section 333O(9)),
  - (d) making rules under section 333P, and
  - (e) determining the general policy and principles by reference to which it performs particular functions under this Part.

**333O Power of the FCA to give guidance**

- (1) The FCA may give guidance consisting of such information and advice relating to its functions under sections 333G, 333H, 333I, 333J and 333P as it considers appropriate.
- (2) Subsection (3) applies where the FCA proposes to give guidance to designated guidance providers generally, or to a class of designated guidance providers, in relation to standards set under section 333G or rules made under section 333P.
- (3) Where this subsection applies, subsections (1)(b), (2)(e) and (3) of section 138I apply to the proposed guidance as they apply to proposed rules, unless the FCA considers that the delay in complying with those provisions would be prejudicial to the interests of recipients of pensions guidance from designated guidance providers.
- (4) The FCA may—
  - (a) publish its guidance,
  - (b) offer copies of its published guidance for sale at a reasonable price, and
  - (c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.

**Pension Schemes Bill**, *continued*

- (5) On giving any general guidance, the FCA must give written notice to the Treasury without delay.
- (6) If the FCA alters any of its general guidance, it must give written notice to the Treasury without delay.
- (7) The notice under subsection (6) must include details of the alteration.
- (8) If the FCA revokes any of its general guidance, it must give written notice to the Treasury without delay.
- (9) In this section “general guidance” means guidance given by the FCA under this section which is—
  - (a) given to persons generally, to designated guidance providers generally or to a class of designated guidance provider,
  - (b) intended to have continuing effect, and
  - (c) given in writing or other legible form.

*Funding of pensions guidance***333P Funding of FCA’s pensions guidance costs**

- (1) For the purpose of meeting the FCA’s pensions guidance costs the FCA must make rules requiring designated guidance providers, or any specified class of designated guidance provider, to pay to the FCA specified amounts or amounts calculated in a specified way.
- (2) Before the FCA publishes a draft of the rules it must consult the Treasury.
- (3) The amounts to be paid under the rules may include a component—
  - (a) to cover the expenses of the FCA in collecting the payments;
  - (b) to enable the FCA to maintain an adequate reserve.
- (4) In this section the “FCA’s pensions guidance costs” means the expenses incurred, or expected to be incurred, by the FCA in connection with the carrying out of the functions conferred on it by this Part other than by section 333Q.

**333Q Funding of Treasury’s pensions guidance costs**

- (1) The Treasury must, from time to time, notify the FCA of the amount of the Treasury’s pensions guidance costs.
- (2) Having been so notified, the FCA must make rules requiring authorised persons, or any specified class of authorised person, to pay to the FCA specified amounts or amounts calculated in a specified way with a view to recovering the amount notified under subsection (1).
- (3) The amounts to be paid under the rules may include a component to cover the expenses of the FCA in collecting the payments (“collection costs”).
- (4) Before the FCA publishes a draft of the rules it must consult the Treasury.
- (5) The rules may be made only with the consent of the Treasury.

**Pension Schemes Bill**, *continued*

- (6) The Treasury may notify the FCA of matters that they will take into account when deciding whether or not to give consent for the purposes of subsection (5).
- (7) The FCA must have regard to any matters notified under subsection (6) before publishing a draft of rules to be made under this section.
- (8) The FCA must pay to the Treasury the amounts that it receives under rules made under this section apart from amounts in respect of its collection costs (which it may keep).
- (9) The Treasury must pay into the Consolidated Fund the amounts received by them under subsection (8).
- (10) In this section the “Treasury’s pensions guidance costs” means the expenses incurred, or expected to be incurred, by the Treasury—
- (a) in giving pensions guidance or arranging for it to be given by designated guidance providers,
  - (b) in meeting the expenses of designated guidance providers incurred in connection with the giving of the guidance (including expenses incurred by virtue of sections 333G(2), 333L and 333P), whether by means of the power conferred by section 333D or otherwise,
  - (c) in providing services to designated guidance providers to support them in giving the guidance,
  - (d) in increasing awareness of the availability of the guidance,
  - (e) in undertaking or commissioning research relating to the giving of the guidance, and
  - (f) otherwise in connection with the carrying out of its functions under section 333B.

- (11) The Treasury may by regulations amend the definition of the “Treasury’s pensions guidance costs” in subsection (10).”

3 In section 1B (the FCA’s general duties), after subsection (7) insert—

“(7A) The FCA’s general functions do not include its general pensions guidance functions (see section 333N(3)).”

4 After section 137FA insert—

**“137FB FCA general rules: disclosure of information about the availability of pensions guidance**

- (1) The FCA must make general rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme with a right or entitlement to cash balance benefits or other money purchase benefits.
- (2) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—
  - (a) the Secretary of State, and
  - (b) the Treasury.
- (3) In determining what provision to include in the rules, the FCA must have regard to any regulations that are for the time being in force under section 113 of the Pension Schemes Act 1993 concerning the giving of information about the availability of pensions guidance to members

**Pension Schemes Bill**, *continued*

of pension schemes with a right or entitlement to cash balance benefits or other money purchase benefits.

- (4) In this section—  
 “cash balance benefits” has the meaning given by section 152(5) of the Finance Act 2004;  
 “money purchase benefits” has the meaning given by section 152(4) of the Finance Act 2004;  
 “pensions guidance” means pensions guidance given by virtue of Part 20A;  
 “relevant pension scheme” means a pension scheme set up by a person with permission under this Act to establish—  
 (a) a personal pension scheme within the meaning of an order under section 22, or  
 (b) a stakeholder pension scheme within the meaning of such an order.”
- 5 In section 138I (rules: consultation by the FCA)—  
 (a) in subsection (6) (exemption from requirement to carry out a cost benefit analysis), after paragraph (a) insert—  
     “(aa) section 137FB;”;  
 (b) in that subsection, after paragraph (c) insert—  
     “(ca) section 333P;  
     (cb) section 333Q;”;  
 (c) in subsection (10) (rules to which requirement to consult the PRA does not apply), after “apply to” insert “—  
     (a) rules made by the FCA under section 137FB, 333P or 333Q, or  
     (b) ”.
- 6 In section 139A (power of the FCA to give guidance), after subsection (1) insert—  
 “(1A) The FCA may not give guidance under this section relating to its functions under sections 333G, 333H, 333I, 333J and 333P (see section 333O for provision about the giving of guidance relating to these functions).”
- 7 In section 140A (competition scrutiny: interpretation), in subsection (1), in paragraph (a) of the definition of “regulating provisions”—  
 (a) in sub-paragraph (ii), after “section 139B(5)” insert “or 333O(9)”;  
 (b) after sub-paragraph (iv) insert—  
     “(v) standards set under section 333G;  
     (vi) statement issued by the FCA under 333J;”.
- 8 In section 168 (appointment of persons to carry out investigations in particular cases), in subsection (2)(a), after “section 24(1)” insert “or 333F”.
- 9 In section 429 (Parliamentary control of statutory instruments), in subsection (2) (regulations subject to the affirmative resolution procedure), for “or 262” substitute “, 262, 333C or 333Q”.
- 10 In Schedule 1ZA (the FCA), in paragraph 8 (arrangements for discharging functions)—  
 (a) in sub-paragraph (3) (legislative functions that must be exercised by the FCA acting through its governing body), in paragraph (c)(i), for “or 312J” substitute “, 312J or 333J”;  
 (b) in sub-paragraph (3), after paragraph (d) insert—

**Pension Schemes Bill, *continued***

- “(e) setting standards under section 333G.”
- (c) in sub-paragraph (4), after “section 139B(5)” insert “or 333O(9)”.
- 11 In that Schedule, in paragraph 11 (annual report), in sub-paragraph (1) (matters to be covered in the report), after paragraph (ha) insert—
- “(hb) how, in its opinion, it has complied with its duties in section 333N.”.
- 12 In that Schedule, in paragraph 23 (fees)—
- (a) in sub-paragraph (1), in the opening words, after “of this Act” insert “other than sections 333P and 333Q”;
- (b) in sub-paragraph (1)(a), after “functions” insert “, other than its excepted functions,”;
- (c) in sub-paragraph (2)(a), after “(ca)” insert “but not its excepted functions”;
- (d) after sub-paragraph (2) insert—
- “(2ZA) The “excepted functions” of the FCA are—
- (a) its functions under sections 333E to 333P, and
- (b) its functions under section 333Q so far as relating to the collection of payments.”
- 13 In section 85 of the Financial Services Act 2012 (relevant functions in relation to scheme for investigating complaints against FCA and other regulators), in subsection (4) (legislative functions of the FCA that are excluded)—
- (a) in paragraph (c)(i), for “or 312J” substitute “, 312J or 333J”;
- (b) in paragraph (e), after “139B(5)” insert “or 333O(9)”;
- (c) after paragraph (e) insert—
- “(f) setting standards under section 333G of FSMA 2000.”
- 14 (1) For the purpose of the exercise of a function conferred by a provision listed in the first column of the table, a consultation requirement listed in the corresponding entry in the second column may be satisfied by things done before the day on which this Act is passed.

<i>Provision conferring function</i>	<i>Consultation requirement</i>
Section 137FB of FSMA	Sections 137FB(2) and 138I(1) of FSMA
Section 333E(1)(e) of FSMA	Section 333E(2) of FSMA
Section 333G(1) of FSMA	Section 138I(1) of FSMA as applied with modifications by section 333G(5) of FSMA
Section 333J(1) of FSMA	Section 333K(1) of FSMA
Section 333O(1) of FSMA	Section 138(1)(b) of FSMA as applied by section 333O(3) of FSMA
Section 333P(1) of FSMA	Sections 138I(1) and 333P(2) of FSMA.
Section 333Q(2) of FSMA	Sections 138I(1) and 333Q(4) of FSMA

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**Pension Schemes Bill, *continued***

- (2) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed standards for the giving of pensions guidance by designated guidance providers—
- (a) the consultation requirement in section 138I of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the draft is not accompanied by—
    - (i) a cost benefit analysis, or
    - (ii) an explanation of the Financial Conduct Authority’s reasons for believing that setting the proposed standards would secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers, and
  - (b) if it is, any resulting standards published under section 138G(4) of FSMA must be accompanied by—
    - (i) a cost benefit analysis within the meaning of section 138I of that Act even if the conditions in subsection (5) of section 138I are not satisfied, and
    - (ii) an explanation of the Financial Conduct Authority’s reasons for believing that setting the standards will secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
- (3) References in sub-paragraph (2) to provisions of sections 138G and 138I of FSMA are to those provisions as applied with modifications by section 333G(5) of that Act.
- (4) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme with a right or entitlement to cash balance benefits or other money purchase benefits, the consultation requirement in section 137FB(2) of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the only consultation before publication was with the Treasury.
- (5) In this paragraph—
- “consultation requirement” includes—
    - (e) a requirement to publish a draft;
    - (f) a requirement under section 333E(2)(b) or (c) of FSMA;
  - “FSMA” means the Financial Services and Markets Act 2000.
- 15 Expenses incurred by the Financial Conduct Authority before the day on which this Act is passed in anticipation of the conferral of functions on it by virtue of the amendments made by this Schedule are to be treated as if they had been incurred on or after that day.”

***Member’s explanatory statement***

*The Schedule inserted by this amendment sets out the legislative framework for the giving of pensions guidance to pension scheme members with a right or entitlement to cash balance benefits or other money purchase benefits by inserting a new Part 20A into the Financial Services and Markets Act 2000 and making consequential amendments.*

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**Pension Schemes Bill, *continued***

ORDER OF THE HOUSE [2 SEPTEMBER 2014]

That the following provisions shall apply to the the Pension Schemes Bill:—

*Committal*

1. The Bill shall be committed to a Public Bill Committee.

*Proceedings in Public Bill Committee*

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 6 November 2014.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

*Consideration and Third Reading*

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption of that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

*Other Proceedings*

7. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or any further message from the Lords) may be programmed.

ORDER OF THE COMMITTEE [21 OCTOBER 2014]

That—

- (1) the Committee shall (in addition to its first meeting at 8.55 a.m. on Tuesday 21 October) meet—
  - (a) at 2.00 pm on Tuesday 21 October;
  - (b) at 11.30 am and 2.00 pm on Thursday 23 October;
  - (c) at 9.25 am and 2.00 pm on Tuesday 28 October;
  - (d) at 11.30 am and 2.00 pm on Thursday 30 October;
  - (e) at 9.25 am and 2.00 pm on Tuesday 4 November;
  - (f) at 11.30 am and 2.00 pm on Thursday 6 November;
- (2) the Committee shall hear oral evidence in accordance with the following Table:

**TABLE**

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 21 October	Until no later than 9.30 am	The Pensions Regulator
Tuesday 21 October	Until no later than 10.15 am	Pension Protection Fund; Financial Conduct Authority

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**Pension Schemes Bill, *continued***

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 21 October	Until no later than 11.00 am	Pensions Advisory Service; Money Advice Service
Tuesday 21 October	Until no later than 3.00 pm	Royal Society of Arts; Cardano; First Actuarial; KPMG
Tuesday 21 October	Until no later than 4.00 pm	Aon Hewitt; Financial Services Consumer Panel; Confederation of British Industry
Thursday 23 October	Until no later than 12.15 pm	Mr Dominic Lindley; Which?; Trades Union Congress
Thursday 23 October	Until no later than 1.00 pm	Pensions Policy Institute; Dr Ros Altmann; Age UK
Thursday 23 October	Until no later than 3.00 pm	Association of British Insurers; Dr Debbie Harrison; National Association of Pension Funds
Thursday 23 October	Until no later than 4.00 pm	Mr John Greenwood; Strategic Society Centre; Towers Watson
Thursday 23 October	Until no later than 4.45 pm	Department for Work and Pensions

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 8; Schedule 1; Clauses 9 to 12; Schedule 2; Clause 13; Schedule 3; Clauses 15 to 37; Schedule 4; Clauses 38 to 45; Clause 14; new Clauses; new Schedules; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 p.m. on Thursday 6 November.

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