



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Tuesday 6 March 2018

New Amendments handed in are marked thus ★

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

Amendments tabled since the last publication: 30 to 33 and NC5

CONSIDERATION OF BILL (REPORT STAGE)

FINANCIAL GUIDANCE AND CLAIMS BILL [*LORDS*], AS AMENDED

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

Secretary Esther McVey

NC3

☆ To move the following Clause—

“Unsolicited direct marketing: pensions

- (1) The Secretary of State may make regulations prohibiting unsolicited direct marketing relating to pensions.
- (2) The regulations may—
 - (a) make provision about when a communication is to be, or is not to be, treated as unsolicited;
 - (b) make provision for exceptions to the prohibition;
 - (c) confer functions on the Information Commissioner and on OFCOM (including conferring a discretion);
 - (d) apply (with or without modifications) provisions of the Data Protection Act 1998 or the Privacy and Electronic Communications (EC Directive)

Financial Guidance and Claims Bill [Lords], continued

Regulations 2003 (S.I. 2003/2426) (including, in particular, provisions relating to enforcement).

- (3) The regulations may—
 - (a) make different provision for different purposes;
 - (b) make different provision for different areas;
 - (c) make incidental, supplementary, consequential, transitional or saving provision.
- (4) Regulations under this section are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) If before the end of June in any year the Secretary of State has not made regulations under this section (whether or not in that year), the Secretary of State must—
 - (a) publish a statement, by the end of July in that year, explaining why regulations have not been made and setting a timetable for making the regulations, and
 - (b) lay the statement before each House of Parliament.
- (7) In this section, “OFCOM” means the Office of Communications established by section 1 of the Office of Communications Act 2002.”

Member’s explanatory statement

This new clause inserts a new power for the Secretary of State to make regulations (subject to the affirmative procedure) banning unsolicited direct marketing relating to pensions. If the power is not exercised by June, the Secretary of State must explain to Parliament why not. This new clause would be inserted after Clause 24.

Secretary Esther McVey

NC4

☆ To move the following Clause—

“Unsolicited direct marketing: other consumer financial products etc

- (1) The Secretary of State must keep under review whether a prohibition on unsolicited direct marketing in relation to consumer financial products and services other than pensions would be appropriate.
- (2) If the Secretary of State considers that such a prohibition would be appropriate, the Secretary of State may make regulations applying regulations made under section (*Unsolicited direct marketing: pensions*) to other consumer financial products and services (with or without modifications).
- (3) In considering whether to make such regulations, the Secretary of State must take into account any advice received from the single financial guidance body under section 3(7)(b)(ii) (consumer protection function: advice on effect on consumers of unsolicited direct marketing).
- (4) The regulations may—
 - (a) make different provision for different purposes;
 - (b) make different provision for different areas;
 - (c) make incidental, supplementary, consequential, transitional or saving provision.
- (5) Regulations under this section are to be made by statutory instrument.

Financial Guidance and Claims Bill [Lords], continued

- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Member’s explanatory statement

This new clause would give the Secretary of State the power to make regulations (subject to the affirmative procedure) banning unsolicited direct marketing in relation to consumer financial products and services other than pensions. It would come immediately after NC3.

Stella Creasy

NC1

To move the following Clause—

“High-cost credit: advice to the Financial Conduct Authority

- (1) In exercising its functions the single financial guidance body must have regard to the effect of high-cost credit card lending on consumer protection and must produce and publish an annual assessment of any consumer detriment.
- (2) The assessment under subsection (1) shall in particular consider—
- (a) what level of interest and fees constitute a high-cost credit card;
 - (b) information provided by high-cost credit card providers to customers, and whether such information allows customers to make informed financial decisions;
 - (c) the impact of high-cost credit lending on levels of personal debt, as well as any other factors that the single financial guidance body considers relevant.
- (3) If the single financial guidance body considers it to be necessary for consumer protection it must advise the Financial Conduct Authority to impose a limit on the cost of specified types of credit.”

Member’s explanatory statement

This new clause would require the single financial guidance body to consider the effect of high-cost lending using credit cards on consumer protection and produce an annual assessment of any consumer detriment from such high-cost lending.

Jack Dromey
Debbie Abrahams
Mike Amesbury
Vicky Foxcroft

NC2

☆ To move the following Clause—

“Specific requirements as to the pensions guidance function: mid life reviews

- (1) As part of its pensions guidance and money guidance functions, the single financial guidance body must provide targeted information and guidance for members of the public from the age of 50 to help them make decisions on their financial affairs.

Financial Guidance and Claims Bill [*Lords*], *continued*

- (2) In particular, the information and guidance in subsection (1) shall include information and guidance on—
- (a) increasing pension contributions in preparation for retirement,
 - (b) saving money in preparation for retirement, and
 - (c) career development and the impact of career development on financial matters including preparation for retirement.”

Member's explanatory statement

This new clause provides for the single financial guidance body to provide guidance to members of the public over the age of 50, to prepare them for retirement. These “mid life reviews” would provide guidance on pensions, savings, and career development.

Frank Field

NC5

- ★ To move the following Clause—

Unsolicited direct marketing: pensions

- (1) The Secretary of State may make regulations prohibiting unsolicited direct marketing relating to pensions and prohibiting the use for commercial purposes of information obtained by means of such direct marketing.
- (2) The regulations may—
 - (a) make provision about when a communication is to be, or is not to be, treated as unsolicited;
 - (b) make provision for exceptions to the prohibition;
 - (c) confer functions on the Information Commissioner, on OFCOM and on the Financial Conduct Authority
 - (d) apply (with or without modifications) provisions of the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426) or the Financial Services and Markets Act 2000 (including, in particular, provisions relating to enforcement).
- (3) The regulations may—
 - (a) make different provision for different purposes;
 - (b) make different provision for different areas;
 - (c) make incidental, supplementary, consequential, transitional or saving provision.
- (4) Regulations under this section are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) If before the end of June in any year the Secretary of State has not made regulations under this section (whether or not in that year), the Secretary of State must—
 - (a) publish a statement, by the end of July in that year, explaining why regulations have not been made and setting a timetable for making the regulations, and
 - (b) lay the statement before each House of Parliament.

Financial Guidance and Claims Bill [Lords], continued

- (7) In this section, “OFCOM” means the Office of Communications established by section 1 of the Office of Communications Act 2002.”

Member’s explanatory statement

This new clause inserts a new power for the Secretary of State to make regulations (subject to the affirmative procedure) banning unsolicited direct marketing relating to pensions and the use for commercial purposes of information obtained by means of such direct marketing. If the power is not exercised by the end of June, the Secretary of State must explain to Parliament why not.

Gareth Thomas

31

- ★ Clause 2, page 2, line 17, at end insert—

“including information about the services offered by credit unions,”

Member’s explanatory statement

This amendment adds to the objectives of the single financial guidance body the requirement to provide information about credit unions.

Stella Creasy

4

- Clause 3, page 3, line 5, at end insert—

“(c) advice to the Financial Conduct Authority on matters relating to high-cost credit”

Secretary Esther McVey

10

- ☆ Clause 3, page 3, line 17, leave out subsection (7) and insert—

“(7) The consumer protection function is—

- (a) to notify the FCA where, in the exercise of its other functions, the single financial guidance body becomes aware of practices carried out by FCA-regulated persons (within the meaning of section 139A of the Financial Services and Markets Act 2000) which it considers to be detrimental to consumers, and
- (b) to consider the effect of unsolicited direct marketing on consumers of financial products and services, and, in particular—
 - (i) from time to time publish an assessment of whether unsolicited direct marketing is, or may be, having a detrimental effect on consumers, and
 - (ii) advise the Secretary of State whether to make regulations under section (*Unsolicited direct marketing: other consumer financial products etc*) (unsolicited direct marketing: other consumer financial products etc).”

Member’s explanatory statement

This amendment makes changes to the consumer protection function to make it clearer exactly what it entails.

Financial Guidance and Claims Bill [Lords], continued

Gareth Thomas

1

Clause 3, page 3, line 39, at end insert—

- “(11) In carrying out its strategic and other functions the single financial guidance body must make and publish an annual assessment of the level of different types of lending across the United Kingdom by district.
- (12) The types of lending covered by the assessment in subsection (11) should include—
- (a) high cost short term credit,
 - (b) hire purchase agreements,
 - (c) conditional sale agreements,
 - (d) open ended credit,
 - (e) other secured lending, and
 - (f) other unsecured lending.”

Member’s explanatory statement

This amendment requires the single financial guidance body to carry out an annual assessment of the level of different types of lending in different geographical areas across the United Kingdom.

Secretary Esther McVey

11

☆ Page 3, line 40, leave out Clause 4

Member’s explanatory statement

This amendment removes the clause on cold-calling (inserted by the Lords). NC3 and NC4 instead provide a power for the Secretary of State to make regulations banning unsolicited direct marketing relating to pensions and other consumer financial products and services.

Jack Dromey
Debbie Abrahams
Mike Amesbury
Vicky Foxcroft

8

☆ Clause 4, page 4, line 2, at end insert—

- “(2A) The single financial guidance body must, within 12 months of the passing of this Act, advise the Secretary of State on how to most effectively implement bans on—
- (a) cold-calling on behalf of, or for the benefit of companies carrying out claims management services or their agents or representatives, and
 - (b) the commercial use of any data by companies carrying out claims management services, their agents or representatives where they cannot demonstrate to the satisfaction of the Secretary of State that this data was not obtained by cold-calling.

(2B) In this section “claims management services” has the same meaning as in section 419A of the Financial Services and Markets Act 2000.”

Member’s explanatory statement

This amendment will require the Secretary of State to specifically ban cold-calling and the commercial use of data from cold-calling by claims management companies, in addition to any bans recommended by the single financial guidance body.

Financial Guidance and Claims Bill [*Lords*], *continued*

Jack Dromey
Debbie Abrahams
Mike Amesbury
Vicky Foxcroft

9

☆ Clause 4, page 4, line 4, leave out “may” and insert “must”

Member’s explanatory statement

This amendment will place a statutory duty on the Secretary of State to institute bans on cold-calling on receipt of advice to do so from the single financial guidance body.

Luciana Berger
Johnny Mercer
Norman Lamb

5

Clause 7, page 5, line 37, at end insert—

- “(ia) how it will specifically provide protections and help to individuals in receipt of mental health crisis services, including NHS mental health crisis services;
- (ib) which other mental health treatment services should be considered mental health crisis services for the purposes of this Act.”

Jack Dromey
Debbie Abrahams
Mike Amesbury
Vicky Foxcroft

3

Clause 7, page 5, line 39, at end insert—

- “(iiiia) the application of the scheme for duration of a person’s stay in hospital or under the care of a crisis team in their local community”

Member’s explanatory statement

This amendment will ensure that people who are staying in hospital or under the care of a crisis team in their local community will be protected by the Debt Respite Scheme once it is established.

Jack Dromey
Debbie Abrahams
Mike Amesbury
Vicky Foxcroft
Yvonne Fovargue

30

★ Clause 8, page 6, line 15, at end insert “and must do so before 1 January 2020.”

Member’s explanatory statement

This amendment commits the Secretary of State to implement a debt respite scheme by the end of next year.

Financial Guidance and Claims Bill [Lords], continued

Luciana Berger
Johnny Mercer
Norman Lamb

6

Clause 8, page 6, line 16, at end insert—

- “(3A) A debt respite scheme established by regulations under this section must, specifically, provide protection and help to individuals in receipt of mental health crisis services as well as any other types of individual provided for by regulations under this section.
- (3B) The regulations must define which services should be considered “mental health crisis services” for the purpose of this Act in addition to the definition in section 25 of this Act.
- (3C) A debt respite scheme established by regulations under this section shall be accessible to individuals in receipt of mental health crisis services irrespective of whether those individuals have accessed debt advice.”

Secretary Esther McVey

12

☆ Clause 18, page 14, line 17, after “where” insert “—

- (i) the disclosure is for the purpose of enabling or facilitating the exercise of the consumer protection function, or
- (ii) ”

Member’s explanatory statement

This amendment is consequential upon Amendment 10, which makes changes to the consumer protection function, including requiring the SFGB to pass information to the FCA in certain circumstances. This amendment ensures that disclosure of information in these circumstances is protected by subsection (7) of Clause 18.

Secretary Esther McVey

13

☆ Clause 19, page 14, line 40, leave out from beginning to end of line 8 on page 15 and insert—

- “(1B) As part of the application process, the trustees or managers must ensure that—
- (a) the member or survivor is referred to appropriate pensions guidance, and
- (b) the member or survivor is provided with an explanation of the nature and purpose of such guidance.
- (1C) Before proceeding with the application, the trustees or managers must ensure that the member or survivor has either received appropriate pensions guidance or has opted out of receiving such guidance.”

Member’s explanatory statement

This amendment will enable FCA rules to require trustees of a personal pension scheme who receive an application from a member to access or transfer their pension to refer them to SFGB guidance and explain its nature and purpose (or ensure that another person, such as the SFGB, does so) and will prevent them from proceeding unless the member confirms that they have received guidance or do not want it.

Financial Guidance and Claims Bill [*Lords*], *continued*

Frank Field

32

- ★ Clause 19, page 14, line 40, leave out from beginning to end of line 8 on page 15 and insert—

“(1B) As part of the application process, the trustees or managers must ensure that—

- (a) the member or survivor is referred to appropriate independent and impartial pensions guidance, and
- (b) the member or survivor is provided with an explanation of the nature and purpose of such guidance.

“(1C) Before proceeding with the application, the trustees or managers must ensure that the member or survivor has either received appropriate independent and impartial pensions guidance or has indicated to the provider of appropriate independent and impartial pensions guidance the desire to opt out of receiving such guidance.”

Member’s explanatory statement

This amendment will enable FCA rules to require trustees of a personal pension scheme who receive an application from a member to access or transfer their pension to refer them to SFGB guidance and explain its nature and purpose (or ensure that another person, such as the SFGB, does so) and will prevent them from proceeding unless the member confirms that they have received guidance or have indicated to the SFGB that they do not want it.

Secretary Esther McVey

14

- ☆ Clause 19, page 15, line 10, leave out from “guidance” to end of line 11

Member’s explanatory statement

This amendment (and Amendment 13) removes references to independent financial advice from Clause 19, so that it refers only to pensions guidance given by the SFGB in pursuance of Clause 5 of the Bill.

Secretary Esther McVey

15

- ☆ Clause 19, page 15, line 14, at end insert—

“() make further provision about how, and to whom, a member or survivor may indicate that they have received or opted out of receiving appropriate pensions guidance for the purposes of subsection (1C);”

Member’s explanatory statement

This amendment expressly envisages the rules making provision about how the opt-out (or confirmation of receipt of guidance) mentioned in the new subsection (1C) inserted by Amendment 13 must be expressed in order to be effective.

Frank Field

33

- ★ Clause 19, page 15, line 14, at end insert—

“(ba) make further provision about how and to whom, a member or survivor may indicate that they have received appropriate independent and impartial pensions guidance, or have indicated to the provider of this guidance that they wish to opt out, for the purposes of subsection (1C);”

Member’s explanatory statement

This amendment expressly envisages the rules making provision about how the opt-out (or confirmation of receipt of guidance) mentioned in the new subsection (1C) inserted by Amendment 32 must be expressed in order to be effective.

Financial Guidance and Claims Bill [Lords], continued

Secretary Esther McVey

16

- ☆ Clause 19, page 15, leave out line 17 and insert “communication that is made for the purposes of complying with the duty in subsection (1C)”

Member’s explanatory statement

This amendment is consequential on the changes to the duties on trustees made by Amendment 13.

Secretary Esther McVey

17

- ☆ Clause 20, page 16, line 10, leave out from beginning to end of line 23 and insert—

“(2) As part of the application process, the trustees or managers must ensure that—

- (a) the beneficiary is referred to appropriate pensions guidance, and
- (b) the beneficiary is provided with an explanation of the nature and purpose of such guidance.

- (3) Before proceeding with the application, the trustees or managers must ensure that the beneficiary has either received appropriate pensions guidance or has opted out of receiving such guidance.”

Member’s explanatory statement

This amendment makes equivalent changes to Clause 20(2), which relates to occupational pension schemes in Great Britain, to the changes made by Amendment 13 for personal pension schemes.

Secretary Esther McVey

18

- ☆ Clause 20, page 16, line 25, leave out from “guidance” to end of line 26

Member’s explanatory statement

This amendment is the equivalent to Amendment 14 for occupational pension schemes in Great Britain.

Secretary Esther McVey

19

- ☆ Clause 20, page 16, line 29, at end insert—

“() make further provision about how, and to whom, a beneficiary may indicate that they have received or opted out of receiving appropriate pensions guidance for the purposes of subsection (3);”

Member’s explanatory statement

This amendment is the equivalent to Amendment 15 for occupational pension schemes in Great Britain.

Secretary Esther McVey

20

- ☆ Clause 20, page 16, line 31, leave out from second “a” to end of line 32 and insert “communication that is made for the purposes of complying with the duty in subsection (3)”

Member’s explanatory statement

This amendment is the equivalent to Amendment 16 for occupational pension schemes in Great Britain.

Financial Guidance and Claims Bill [*Lords*], *continued*

Secretary Esther McVey

21

- ☆ Clause 20, page 17, line 27, leave out from beginning to end of line 40 and insert—
- “(2) As part of the application process, the trustees or managers must ensure that—
- (a) the beneficiary is referred to appropriate pensions guidance, and
 - (b) the beneficiary is provided with an explanation of the nature and purpose of such guidance.
- (3) Before proceeding with the application, the trustees or managers must ensure that the beneficiary has either received appropriate pensions guidance or has opted out of receiving such guidance.”

Member’s explanatory statement

This amendment makes equivalent changes to Amendments 13 and 17 for occupational pension schemes in Northern Ireland.

Secretary Esther McVey

22

- ☆ Clause 20, page 17, line 42, leave out from “guidance” to end of line 43

Member’s explanatory statement

This amendment is the equivalent to Amendments 14 and 18 for occupational pension schemes in Northern Ireland.

Secretary Esther McVey

23

- ☆ Clause 20, page 17, line 46, at end insert—

“() make further provision about how, and to whom, a beneficiary may indicate that they have received or opted out of receiving appropriate pensions guidance for the purposes of subsection (3);”

Member’s explanatory statement

This amendment is the equivalent to Amendments 15 and 19 for occupational pension schemes in Northern Ireland.

Secretary Esther McVey

24

- ☆ Clause 20, page 18, line 2, leave out from second “a” to end of line 3 and insert “communication that is made for the purposes of complying with the duty in subsection (3)”

Member’s explanatory statement

This amendment is the equivalent to Amendments 16 and 20 for occupational pension schemes in Northern Ireland.

Secretary Esther McVey

That Clause 22 be transferred to the beginning of line 1 on page 21

Member’s explanatory statement

This is a drafting change to reorder some of the existing clauses in the Bill to provide a more logical order following the insertion of NC3 and NC4.

Financial Guidance and Claims Bill [Lords], continued

Secretary Esther McVey

25

☆ Clause 25, page 21, line 2, at end insert—

“the “consumer protection function” has the meaning given in section 3(7);”

Member’s explanatory statement

This amendment inserts a definition of “the consumer protection function” into the interpretation clause, which will be necessary following the amendment to Clause 18 made by Amendment 12, which refers to the consumer protection function.

Secretary Esther McVey

26

☆ Clause 25, page 21, line 7, at end insert—

““direct marketing” means the communication (by whatever means) of advertising or marketing material which is directed to particular individuals;”

Member’s explanatory statement

This amendment inserts a definition of “direct marketing” into the interpretation clause (using the definition in data protection legislation), which is a term used in the consumer protection function (see Amendment 10) and in NC3 and NC4.

Luciana Berger
Johnny Mercer
Norman Lamb

7

Clause 25, page 21, line 9, at end insert—

““NHS Mental health crisis services” means services provided by NHS England, NHS Wales, or Health and Social Care in Northern Ireland in order to treat acute crises in mental health, whether arising from either acute or chronic mental health conditions.”

Secretary Esther McVey

27

☆ Clause 36, page 35, line 25, after “Sections” insert (*Unsolicited direct marketing: pensions*), (*Unsolicited direct marketing: other consumer financial products etc*) and”**Member’s explanatory statement**

This amendment amends the commencement clause so that the new clauses on unsolicited direct marketing contained in NC3 and NC4, would come into force automatically two months after Royal Assent.

Gareth Thomas

2

Schedule 3, page 45, line 8, at end insert—

“17A(1) Section 165 (regulators’ power to require information: authorised persons etc) is amended as follows.

(2) In subsection (4) after paragraph (b) insert—

(c) in relation to the exercise by the FCA of the powers conferred by subsections (1) and (3), information and documents reasonably

Financial Guidance and Claims Bill [Lords], continued

required by the single financial guidance body in connection with the exercise by the body of its functions as set out in section 3 of the Financial Guidance and Claims Act 2018.”

Member’s explanatory statement

This amendment extends the FCA’s power to require information from authorised persons to include information required by the single financial guidance body for carrying out its functions.

Secretary Esther McVey

28

- ☆ Title, line 2, leave out “cold-calling and”

Member’s explanatory statement

This amendment, together with Amendment 29, amends the long title in consequence of NC3 and NC4.

Secretary Esther McVey

29

- ☆ Title, line 3, at end insert “to provide a power to make regulations prohibiting unsolicited direct marketing in relation to pensions and other consumer financial products and services;”

Member’s explanatory statement

See explanatory statement for Amendment 28.

ORDER OF THE HOUSE [22 JANUARY 2018]

That the following provisions shall apply to the Financial Guidance and Claims Bill [Lords]:

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 Tuesday 6 February 2018.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and any proceedings in legislative grand committee 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 on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on consideration and Third Reading.

Financial Guidance and Claims Bill [*Lords*], *continued**Other proceedings*

7. Any other proceedings on the Bill may be programmed.
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