



# House of Commons

Thursday 5 November 2020

## 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 [*LORDS*]

#### NOTE

This document includes all amendments remaining before the Committee and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the Committee [3 November 2020].

Guy Opperman

9

Clause 123, page 118, line 1, leave out subsection (2)

***Member's explanatory statement***

*This amendment would remove a subsection which requires the Secretary of State, when making regulations or prescribing principles or matters under Part 3 of the Pensions Act 2004, to ensure that certain purposes are achieved as regards pension schemes.*

Jack Dromey  
Seema Malhotra  
Ms Karen Buck  
Florence Eshalomi  
Neil Gray  
Richard Thomson

18

Schedule 10, page 185, line 29, at end insert—

**“221C Guiding Objectives**

- (1) In exercising any powers to make regulations or otherwise to prescribe any matter of principle under this Part, the objectives of the Secretary of State must include—

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**Pension Schemes Bill [Lords], continued**

- (a) supporting the ability of the trustees of a relevant scheme to decide the funding and investment strategy for the scheme taking into account the current and future maturity and liquidity of the relevant scheme consistent with the trustees' duty to invest assets in the best interests of members and beneficiaries; and
  - (b) avoiding the specification of requirements in relation to funding and investment strategies that are likely to accelerate the closure of relevant schemes.
- (2) In subsection (1), "relevant scheme" means an occupational pension scheme that is not near significant maturity and is open to new members and is reasonably expected to remain so, either indefinitely or for a significant period of time."

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Jack Dromey  
Seema Malhotra  
Ms Karen Buck  
Florence Eshalomi  
Neil Gray  
Richard Thomson

**17**

Clause 124, page 118, line 23, leave out "an occupational pension scheme" and insert—

- “(a) an occupational pension scheme, or
- (b) a contract-based workplace scheme”

***Member's explanatory statement***

*This amendment would add contract-based workplace schemes to obligations under this clause, as well as occupational pension schemes.*

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Stephen Timms  
Nigel Mills  
Sir Desmond Swayne  
Neil Coyle  
Steve McCabe  
Neil Gray

Richard Thomson

**21**

Clause 125, page 121, line 11, at end insert—

- “(e) the results of due diligence undertaken by the trustees or managers regarding the intended transfer or the receiving scheme.”

***Member's explanatory statement***

*This amendment enables regulations under inserted subsection (6ZA) of section 95 of the Pension Schemes Act 1993 to prescribe conditions about the results of due diligence undertaken in relation to a transfer request such as to determine that the statutory right to a transfer is not established if specific "red flags" are identified in relation to the transfer or intended receiving pension scheme. Amendments 22, 23 and 24 are related.*

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 Pension Schemes Bill [*Lords*], *continued*

Stephen Timms  
 Nigel Mills  
 Sir Desmond Swayne  
 Neil Coyle  
 Steve McCabe  
 Neil Gray

Richard Thomson

22

Clause 125, page 122, line 4, at end insert—

“(e) the results of due diligence undertaken by the trustees or managers regarding the intended transfer or the receiving scheme.”

***Member’s explanatory statement***

*This amendment enables regulations under inserted subsection (5A) of section 101F of the Pension Schemes Act 1993 to prescribe conditions about the results of due diligence undertaken in relation to a transfer request such as to determine that the statutory right to a transfer is not established if specific “red flags” are identified in relation to the transfer or intended receiving pension scheme. Amendments 21, 23 and 24 are related.*

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Stephen Timms  
 Nigel Mills  
 Sir Desmond Swayne  
 Neil Coyle  
 Steve McCabe  
 Neil Gray

Richard Thomson

23

Schedule 11, page 193, line 20, at end insert—

“(e) the results of due diligence undertaken by the trustees or managers regarding the intended transfer or the receiving scheme.”

***Member’s explanatory statement***

*This amendment enables regulations under inserted subsection (6ZA) of section 91 of the Pension Schemes (Northern Ireland) Act 1993 to prescribe conditions about the results of due diligence undertaken in relation to a transfer request such as to determine that the statutory right to a transfer is not established if specific “red flags” are identified in relation to the transfer or intended receiving pension scheme. Amendments 21, 22 and 24 are related.*

Stephen Timms  
 Nigel Mills  
 Sir Desmond Swayne  
 Neil Coyle  
 Steve McCabe  
 Neil Gray

Richard Thomson

24

Schedule 11, page 194, line 15, at end insert—

“(e) the results of due diligence undertaken by the trustees or managers regarding the intended transfer or the receiving scheme.”

***Member’s explanatory statement***

*This amendment enables regulations under inserted subsection (5A) of section 97F of the Pension*

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**Pension Schemes Bill [Lords], continued**

*Schemes (Northern Ireland) Act 1993 to prescribe conditions about the results of due diligence undertaken in relation to a transfer request such as to determine that the statutory right to a transfer is not established if specific “red flags” are identified in relation to the transfer or intended receiving pension scheme. Amendments 21, 22 and 23 are related.*

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Guy Opperman

10

Clause 132, page 125, line 17, leave out subsection (2)

**Member’s explanatory statement**

*This amendment would remove the privilege amendment inserted by the Lords.*

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Neil Gray  
Richard Thomson

NC1

To move the following Clause—

**“Auto-enrolment**

- (1) The Pensions Act 2008 is amended as follows—
  - (a) in section 3, in subsection (1)(a) leave out “22” and insert “18”;
  - (b) in section 13, leave out subsection (1)(a).
- (2) The Secretary of State shall, not later than two months after the day on which this Act is passed, lay before Parliament a statement containing a timetable for the implementation of these changes.”

**Member’s explanatory statement**

*This new clause would lower the age threshold for auto-enrolment from 22 to 18, and remove the lower limit of the “qualifying earnings” band, so that contributions are payable from the first pound earned. It would also require the Secretary of State to lay before Parliament a timetable for implementing these changes.*

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Neil Gray  
Richard Thomson

NC2

To move the following Clause—

**“Pensions Advisory Commission**

- (1) The Pensions Regulator shall establish a committee to be known as the Pensions Advisory Commission.
- (2) The Commission shall consist of—
  - (a) members of the Regulator as provided under section 2(1) of the Pensions Act 2004, and
  - (b) five other persons appointed by Her Majesty on the recommendation of the Secretary of State.

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**Pension Schemes Bill [Lords], continued**

- (3) A person appointed under subsection (2)(b) shall exercise only functions in pursuance of the duties in subsections (5) and (6).
- (4) The Commission shall be chaired by a person appointed under subsection (2)(b).
- (5) It shall be the duty of the Pensions Advisory Commission to submit to the Secretary of State each calendar year, beginning with the year 2022, a report setting out the Commission's views on—
  - (a) the impact of provisions in Parts 1, 2 and 4 of this Act on—
    - (i) persons in different parts and regions of the United Kingdom,
    - (ii) equal treatment of men and women in access to pension provision, and
    - (iii) persons with a protected characteristic under section 4 of the Equality Act 2010; and
  - (b) the effectiveness of the powers in Parts 1 to 3 of this Act in enabling the Pensions Regulator to achieve its objectives under section 5 of the Pensions Act 2004.
- (6) It shall also be the duty of the Commission to report to the Secretary of State by 31 October 2021 its views on when commercial operators should be able to enter the market for provision of a pensions dashboard service.
- (7) The Secretary of State must lay before Parliament a copy of every report received from the Commission under this section.”

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Neil Gray  
Richard Thomson  
Pete Wishart  
Alan Brown

NC3

To move the following Clause—

**“Employer debt: trustees’ discretion**

The following changes are made to the Occupational Pension Schemes (Employer Debt) Regulations 2005 (SI 2005/678)—

- (1) In regulation 2, in the definition of “scheme apportionment arrangement”—
  - (a) in sub-paragraph (f)(ii), after “apply”, insert “but not if the circumstances in paragraph (h) apply”;
  - (b) at end, insert—
    - “(h) the consent of the remaining employer or employers shall not be required under (f)(ii) above where all of the following conditions apply—
      - (i) the departing employer’s debt was treated as becoming due prior to the coming into force of this provision; and
      - (ii) the departing employer’s debt was less than 0.5% of the scheme’s overall liabilities, as estimated by the trustees or managers on advice of the scheme actuary, as if the whole scheme had been winding-up at the time the debt was treated as becoming due, and
      - (iii) the employer in question was operating as an unincorporated business during his participation in the scheme, and

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**Pension Schemes Bill [Lords], continued**

- (iv) the trustees or managers consider that, in the context of the scheme overall, it would not be in the scheme's interests to seek recovery of the employer's liability share from the departing employer."
- (2) In regulation 9, after paragraph (14B), insert the following new paragraph—
- “(14C) Condition L is that a debt was treated as becoming due from him under section 75 of the 1995 Act but is excluded under this Condition because—
- (a) the employer's debt was treated as becoming due prior to this Condition coming into force; and
  - (b) the employer's debt was less than 0.5% of the scheme's overall liabilities, as estimated by the trustees or managers on advice of the scheme actuary, as if the whole scheme had been winding-up at the time the debt was treated as becoming due, and
  - (c) the employer in question was operating as an unincorporated business during his participation in the scheme, and
  - (d) at or before the applicable time, the trustees or managers have made a determination not to pursue the debt on the grounds that, in the context of the scheme overall, seeking recovery represented a disproportionate cost to the scheme.”

**Member's explanatory statement**

*This new clause is intended to enable pension scheme trustees to exercise discretion not to pursue employer debt (“section 75 debt”) following an employer's exit from a pension scheme where such debt is below a de minimis threshold. This aims to support unincorporated employers who are now retired for business and for whom there are no easements within the current regulation.*

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Neil Gray  
Richard Thomson  
Pete Wishart  
Alan Brown

NC4

To move the following Clause—

**“Employer debt: deferred debt arrangement**

The following changes are made to the Occupational Pension Schemes (Employer Debt) Regulations 2005 (SI 2005/678)—

- (1) In regulation 6F—
- (a) in paragraph (1), leave out “A” and insert “Subject to the provisions of paragraph (8) below, a”;
  - (b) at end, insert—
- “(8) In relation to a frozen scheme, the trustees or managers of the scheme may agree to a deferred debt arrangement where the employment-cessation event occurred at a time prior to the scheme becoming a frozen scheme, providing the conditions of paragraph (3) are met at the time the deferred debt arrangement is entered into.”

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**Pension Schemes Bill [Lords], continued****Member's explanatory statement**

*This new clause would permit employers in a pension scheme closed to future accrual to apply for a deferred debt arrangement, providing they meet the other statutory tests. This aims to support employers who are still trading but were not able to use the existing deferred debt easement.*

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Jack Dromey  
Seema Malhotra  
Ms Karen Buck  
Florence Eshalomi  
Neil Gray  
Richard Thomson

NC5

To move the following Clause—

**“Review of automatic enrolment**

- (1) The Secretary of State must, by regulations made by statutory instrument, make any amendment to, or repeal or revoke any provision of, this Act, the Pensions Act 2008 or any other primary or secondary legislation in order to implement the recommendations of the Automatic Enrolment Review 2017.
- (2) Any regulations made under subsection (1) must be laid before Parliament within six months of the day on Royal Assent is given to this Act.
- (3) No regulations shall be made under subsection (1) unless a draft of the regulations has been laid before, and approved by, a resolution of both Houses of Parliament.
- (4) Before the end of a period of two years from the day on which Royal Assent is given to this Act, the Secretary of State must lay before Parliament the report of a further review of the operation of automatic enrolment.
- (5) The report under subsection (4) must make a recommendation as to whether the Government should bring forward further legislation to implement the findings of the review.”

**Member's explanatory statement**

*This new clause would require the Secretary of State to implement the recommendations of the Automatic Enrolment Review 2017 and require a further review of automatic enrolment within two years.*

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Jack Dromey  
Seema Malhotra  
Ms Karen Buck  
Florence Eshalomi  
Neil Gray  
Richard Thomson

NC6

To move the following Clause—

**“Occupational pension schemes - review of support**

- (1) The Secretary of State shall undertake a review of the level of support available under the Financial Assistance Scheme to any member of an occupational pension scheme which is a qualifying pension scheme under Regulation 9 of the

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**Pension Schemes Bill [Lords], continued**

Financial Assistance Scheme Regulations 2005 (S.I., 2005, No 1986), regardless of whether the employer in relation to that scheme was solvent or insolvent.

- (2) The Secretary of State shall lay the review before Parliament no later than—
- (a) the day which is six months from the day on which this Act receives Royal Assent, or
  - (b) if neither House of Parliament sits on the day specified in (a), the first day on which either House sits after that day.”

***Member’s explanatory statement***

*This new clause would require the Secretary of State to carry out a review of the support available to Financial Assistance Scheme qualifying members, including the former ASW steelworkers.*

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Jack Dromey  
Seema Malhotra  
Ms Karen Buck  
Florence Eshalomi  
Neil Gray  
Richard Thomson

NC7

To move the following Clause—

**“Regulation of pension superfunds**

- (1) The Secretary of State shall publish a statement on proposals for primary legislation in relation to a duty on the Pensions Regulator to regulate pension superfunds.
- (2) For the purposes of this section, a pension superfund is a defined benefit pension scheme that allows for the severance of an employer’s liability towards a defined benefit scheme and one of the following conditions applies—
  - (a) the scheme employer is replaced by a special purpose vehicle (SPV) employer, or
  - (b) the liability of the employer to fund the scheme’s liabilities is replaced by an employer backed with a capital injection to a capital buffer.
- (3) The statement under subsection (1) shall be laid before Parliament before the end of a period of six months from the day on which this Act receives Royal Assent.”

***Member’s explanatory statement***

*This new clause would require the Secretary of State to publish within six months of Royal Assent proposals for primary legislation to place a duty on the Pensions Regulator to regulate pension superfunds.*

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 Pension Schemes Bill [*Lords*], *continued*

Jack Dromey  
Seema Malhotra  
Ms Karen Buck  
Florence Eshalomi  
Neil Gray  
Richard Thomson

NC8

To move the following Clause—

**“Trustees’ voting rights and engagement activities: publication of information**

- (1) Schedule 18 to the Pensions Act 2014 is amended as follows.
- (2) After paragraph 2, insert—

“2A The Secretary of State may by regulations make provision requiring the publication of information about—

- (a) the exercise of the rights (including voting rights) attaching to the investments of the scheme, by or on behalf of, the trustees of the scheme; and
  - (b) engagement activities undertaken by or in respect of the investments, by or on behalf of, the trustees of the scheme”
- (3) In paragraph 3, omit “1 or 2” wherever it appears and insert in its place “1, 2 or 2A.”

***Member’s explanatory statement***

*This new clause would give the Secretary of State the power to create regulations requiring pension schemes to publish information about how voting and other engagement activities have been carried out.*

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Stephen Timms  
Neil Gray  
Richard Thomson

NC9

To move the following Clause—

**“Duty to publish information on the statement of investment principles**

- (1) The Pensions Act 2004 is amended as follows.
- (2) In section 244, at end insert—

“(8) The most recent version of the scheme statement of investment principles must be made available to the Pensions Regulator for publication every three years.”

***Member’s explanatory statement***

*This new clause is to ensure all scheme SIPs are made available to TPR.*

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**Pension Schemes Bill [Lords], continued**

Stephen Timms  
Neil Gray  
Richard Thomson

NC10

To move the following Clause—

**“Pensions Guidance**

The Secretary of State must write to members or survivors of pension schemes five years prior to the age of becoming eligible to access their benefits, to state a scheduled date and time for a pensions guidance appointment, or the option to reschedule or defer this appointment; and write annually until a pensions guidance appointment has been taken, or the member’s desire to opt out has been confirmed.”

***Member’s explanatory statement***

*This new clause would ensure members or survivors of pension schemes receive an impartial pensions guidance appointment prior to the point when they become eligible to access their pension benefits, with an appointment booked each year until such time that the member has received impartial guidance.*

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Neil Gray

NC11

To move the following Clause—

**“Pension accounts**

- (1) A jobholder to whom section 3 of the Pensions Act 2008 applies may by notice require an employer to arrange for the jobholder to receive into a pension account any contribution which would otherwise be made by the employer into an automatic enrolment scheme.
  - (2) A contribution by a jobholder or by their employer into the jobholder’s pension account shall be invested in a pension scheme offered by an approved pension provider.
  - (3) The Secretary of State may by regulations make provision—
    - (a) about the form and content of a notice given under subsection (1), or
    - (b) about the arrangements that the employer is required to make.
  - (4) The Secretary of State may make regulations to set criteria by which a pension provider may be approved for the purposes of subsection (2).
  - (5) Regulations under this section shall be made by statutory instrument and may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
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 Pension Schemes Bill [*Lords*], *continued*

Stephen Timms

NC12

To move the following Clause—

**“Duty to state how non-financial factors are taken into account**

- (1) The Occupational Pension Schemes (Investment) Regulations 2005 are amended as follows.
- (2) In sub-paragraph (3)(b) of regulation 2 (statement of investment principles), leave out sub-sub-paragraph (vii) and insert—
  - “(vii) how non-financial factors are taken into account in the selection, retention and realisation of investments”.

***Member’s explanatory statement***

*This new clause would create a duty in the OPSR 2005 for schemes to state how non-financial factors such as beneficiaries’ views are considered in the development of investment policies, replacing the existing duty to state “the extent (if at all) to which” such factors are taken into account.*

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 ORDER OF THE HOUSE [7 OCTOBER 2020]
That the following provisions shall apply to the Pension Schemes 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 Thursday 5 November 2020.
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 proceedings on Consideration 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 up to and including Third Reading.

*Other proceedings*

7. Any other proceedings on the Bill may be programmed.
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**Pension Schemes Bill [*Lords*], *continued***

ORDER OF THE COMMITTEE [3 NOVEMBER 2020]

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 3 November) meet—
    - (a) at 2.00 pm on Tuesday 3 November;
    - (b) at 11.30 am and 2.00 pm on Thursday 5 November;
  - (2) the proceedings shall be taken in the following order: Clauses 1 to 6; Schedule 1; Clauses 7 to 44; Schedule 2; Clauses 45 to 48; Schedule 3; Clauses 49 to 57; Schedule 4; Clauses 58 to 95; Schedule 5; Clauses 96 to 99; Schedule 6; Clauses 100 to 116; Schedule 7; Clause 117; Schedule 8; Clauses 118 to 120; Schedule 9; Clauses 121 to 123; Schedule 10; Clauses 124 to 129; Schedule 11; Clauses 130 to 132; new Clauses; new Schedules; remaining proceedings on the Bill;
  - (3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 5 November.
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