COMMONS AMENDMENTS

[The page and line references are to Bill 183, the bill as first printed for the Commons.]

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Clause 1

1 Page 2, leave out lines 12 to 16 and insert—

“6th January 1954 to 5th February 1954
6th February 1954 to 5th March 1954
6th March 1954 to 5th April 1954
6th April 1954 to 5th May 1954
6th May 1954 to 5th June 1954
6th June 1954 to 5th July 1954
6th July 1954 to 5th August 1954
6th August 1954 to 5th September 1954
6th September 1954 to 5th October 1954

6th January 2019
6th May 2019
6th July 2019
6th September 2019
6th November 2019
6th January 2020
6th March 2020
6th May 2020
6th July 2020
6th September 2020”

2 Page 2, line 17, leave out “‘1960” substitute “1954’” and insert “‘5th April 1960” substitute “5th October 1954’”

Clause 4

3 Page 4, line 9, leave out “within the prescribed period” and insert “with effect from—
(a) the day after the cessation referred to in paragraph (a) or (b) of subsection (1), or
(b) a day within the prescribed period (if a period is prescribed)"

4 Page 4, line 11, leave out “for subsection (4)” and insert “after subsection (1) insert—

“(1A) This section also applies to a jobholder who—
(a) is aged at least 22,
(b) has not reached pensionable age, and
(c) is not an active member of a qualifying scheme because there has been a period beginning at any time after the jobholder’s automatic enrolment date during which the requirements of section 1(1)(a) or (c) were not met (so that the person was not a jobholder for that period).

(1B) This section also applies to a jobholder who has ceased to be an active member of a qualifying scheme because of something other than an action or omission by the jobholder.”

() For subsection (4) of that section”

5 Page 4, line 19, at end insert—

“( ) In subsection (8) of that section omit “, after the automatic enrolment date,”.”

6 Page 4, leave out line 21 and insert “(4)—

(a) in paragraph (a) omit “at any time after the jobholder’s automatic enrolment date,”;
(b) in that paragraph omit “or a qualifying scheme of which the jobholder is an active member ceases to be such a scheme”;
(c) in paragraph (b) omit “or the employer”;
(d) in paragraph (c) for “time” substitute “event”.”

7 Page 4, line 22, leave out from “(inducements)” to end of line 23 and insert—

“(a) in subsection (1)(a) for “within the period prescribed under section 2(3)” substitute “with effect from—
(i) the day after the membership is given up, or
(ii) a day within the prescribed period (if a period is prescribed)”;  
(b) in subsection (1)(b) for “within the period prescribed under section 2(3)” substitute “with effect from—
(i) the day on which the jobholder became an active member of the scheme to which the notice relates, or
(ii) a day within the prescribed period (if a period is prescribed)”.”

Clause 5

8 Page 4, line 39, leave out from beginning to end of line 14 on page 5 and insert—

““(1) This section applies to a jobholder—


(a) who is aged at least 22,
(b) who has not reached pensionable age, and
(c) to whom earnings of more than £7,475 are payable by the employer in the relevant pay reference period (see section 15)."

Clause 6

9 Page 6, line 32, at end insert—

“( ) In section 5 of the 2008 Act (automatic re-enrolment) omit subsection (5).”

Clause 8

10 Page 7, line 22, leave out “5(1)(a)” and insert “5(1)(c)"

After Clause 9

“Qualifying schemes: administration charges

(1) Section 16 of the 2008 Act (qualifying schemes) is amended as follows.

(2) In subsection (3) for paragraph (a) substitute—

“(a) administration charges due from J while J is an active member exceed a prescribed amount,
(aa) administration charges due from former active members while J is an active member exceed a prescribed amount,
(ab) while J is an active member, the scheme contains provision under which administration charges that will be due from J when J is no longer an active member will exceed a prescribed amount, or will do so in particular circumstances,“.

(3) After that subsection insert—

“(4) For the purposes of subsection (3) administration charges are due from a person to the extent that—

(a) any payments made to the scheme by, or on behalf or in respect of, the person,
(b) any income or capital gain arising from the investment of such payments, or
(c) the value of the person’s rights under the scheme, may be used to defray the administrative expenses of the scheme, to pay commission or in any other way that does not result in the provision of pension benefits for or in respect of members.

(5) In subsection (3)(aa) “former active member” means a person who at some time after the automatic enrolment date was both a jobholder and an active member but is no longer an active member.”

12 Insert the following new Clause—
“Test scheme standard for schemes that produce sum of money for provision of benefits

(1) In section 22 of the 2008 Act (test scheme standard) after subsection (7) insert—

“(8) In the case of a scheme under which a sum of money is made available for the provision of benefits to a relevant member, references in this section to pensions are to be read as references to such sums.”

(2) For section 23 of the 2008 Act substitute—

“23 Test scheme

(1) A test scheme is an occupational pension scheme which satisfies—

(a) the requirement in subsection (2),

(b) the requirement in subsection (4) or requirements prescribed under subsection (6) (as appropriate), and

(c) any further requirements that are prescribed.

(2) The scheme must either—

(a) provide for a member to be entitled to a pension commencing at the appropriate age and continuing for life, or

(b) provide for a sum of money to be made available for the provision of benefits to a member commencing at the appropriate age and continuing for life.

(3) The appropriate age is 65 or any higher age prescribed.

(4) In the case of a scheme that provides entitlement to a pension as mentioned in subsection (2)(a), the annual rate of the pension at the appropriate age must be—

(a) 1/120th of average qualifying earnings in the last three tax years preceding the end of pensionable service, multiplied by

(b) the number of years of pensionable service, up to a maximum of 40.

(5) Section 13(1) (qualifying earnings) applies for the purposes of subsection (4) as if the reference to a pay reference period were a reference to a tax year.

(6) In the case of a scheme that provides for a sum of money to be made available as mentioned in subsection (2)(b), regulations must prescribe requirements relating to that sum.”

Clause 10

Page 8, line 25, leave out subsection (2) and insert—

“(2) For the heading substitute “Certification that quality requirement or alternative requirement is satisfied””
After Clause 10

14 Insert the following new Clause—

“Certification for non-UK schemes

(1) Section 28 of the 2008 Act is amended as follows.

(2) After subsection (3) insert—

“(3A) This section also applies to—

(a) a money purchase scheme that is an occupational pension scheme within section 18(b);
(b) a personal pension scheme of a prescribed description for which provision is made under section 27;
(c) a hybrid scheme that is an occupational pension scheme within section 18(b), to the extent prescribed.”

(3) In subsection (4) at the end insert—

“(d) for a scheme within subsection (3A), means a prescribed requirement.”

(4) In paragraphs (e) and (f) of subsection (6) for “section 26 agreements” substitute “contribution agreements”.

(5) In subsection (8)—

(a) for “section 26 agreements” means the agreement” substitute “contribution agreements” means—

(a) the agreement”;
(b) at the end insert “, or

(b) any agreement of the same or a similar kind that is required, in the case of a scheme within subsection (3A)(b), by regulations under section 27.”

Clause 12

15 Page 10, line 5, leave out “In section 30(5) of the 2008 Act” and insert—

“( ) Section 30 of the 2008 Act is amended as follows.

( ) In subsection (5)”

16 Page 10, line 6, at end insert—

“( ) In subsection (6)(b) omit “(in accordance with section 20(1))”.”

After Clause 14

17 Insert the following new Clause—

“Power to exempt certain cross-border employment from enrolment duty

In Part 7 of the Pensions Act 2004 (cross-border activities within European Union) after section 292 insert—
“292A Exemption from enrolment duty under Part 1 of Pensions Act 2008

Regulations may provide for section 2(1), 3(2), 5(2), 7(3), 9(2) or 54 of the Pensions Act 2008 (employer’s obligations regarding membership of a qualifying scheme) not to apply in relation to a person’s employment of—
(a) an individual in relation to whom the person is a European employer, or
(b) someone whom the person reasonably believes to be such an individual.”

Clause 15

Page 10, line 24, at end insert—

“( ) Schedule 3 to the 1993 Act (which sets out methods for revaluing accrued benefits for the purposes of section 84 of the 1993 Act) is amended as follows.

( ) After paragraph 1(4) insert—

“(5) The sub-paragraphs above are subject to sub-paragraph (6).

(6) If paragraph 2A applies to the pension or other benefit, the final salary method is to apply the requirement of the rules of the scheme mentioned in paragraph 2A(1).”

( ) After paragraph 2 insert—

“2A (1) This paragraph applies to the pension or other benefit if the rules of the scheme under which it is payable contain a requirement that the accrued benefit be revalued by adding to the accrued benefit an amount of at least the relevant amount.

(2) “The accrued benefit” has the same meaning as in paragraph 1.

(3) “The relevant amount” means the amount which, ignoring paragraph 1(5) and (6), would be the additional amount specified in paragraph 1(1A), (1B), (1C) or (1D) (as the case may be) were the appropriate higher revaluation percentage and the appropriate lower revaluation percentage to be determined on the following basis.

(4) The higher revaluation percentage and the lower revaluation percentage for the revaluation period mentioned in paragraph 2(7) are to be taken to be the percentages which would have been specified in the Secretary of State’s order—
(a) had the following been substituted for paragraph 2(3)(a)—

“(a) the percentage increase in the retail prices index for the reference period in relation to the revaluation period (“the inflation percentage”), and”;

(b) had, in paragraph 2(3A)(a), the words “the percentage which appears to the Secretary of State to be” been omitted,
(c) had paragraph 2(4) been omitted,
(d) had, in paragraph 2(5), the words “sub-paragraph (3)(a)” been substituted for “that sub-paragraph”;
(e) had, in paragraph (b) of the definitions of “the higher maximum rate” and “the lower maximum rate” in paragraph 2(6), the words “retail prices index” been substituted for “general level of prices”, and
(f) had the following been inserted after paragraph 2(6)—

“(6A) In this paragraph “retail prices index” means—
(a) the general index of retail prices (for all items) published by the Statistics Board (or any predecessor), or
(b) where that index is not published for a month, any substituted index or figures published by the Board (or any predecessor).”

19 Page 10, line 27, leave out “subsection (4) substitute—” and insert “subsections (3) and (4) substitute—

“(3) Subsection (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if under the rules of the scheme the rate or part is for the time being being increased at intervals of not more than twelve months by at least the relevant percentage.”

20 Page 10, line 33, leave out from beginning to end of line 36 on page 11 and insert—

“(4ZA) Subsection (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if subsection (4ZB) applies to the rate or part.

(4ZB) Subject to subsection (4ZD), this subsection applies to the rate or part if, under the rules of the scheme, the rate or part is for the time being being increased, and since the relevant time has always been increased, at intervals of not more than twelve months by at least—

(a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or
(b) if lower, the default percentage for that period.

(4ZC) In subsection (4ZB) “the relevant time” means—

(a) the beginning of 2011 or, if later, the time when the pension became a pension in payment, or
(b) if the pension was transferred to the scheme from another occupational pension scheme as a pension in payment after the beginning of 2011, the time of the transfer.

(4ZD) If the pension was transferred to the scheme as mentioned in subsection (4ZC)(b), subsection (4ZB) does not apply to the rate or part unless, immediately before the transfer, subsection (4ZB) (read with this subsection if relevant) applied to the rate or part by reference to the scheme from which the pension was transferred (or would have applied had subsection (4ZB) been in force immediately before the transfer).”
Page 11, line 39, leave out “(4)” and insert “(3)"

Page 11, line 42, leave out “to (4ZD)” and insert “and (4ZB)”

Page 11, line 46, leave out “to (4ZD)” and insert “and (4ZB)”

Clause 17

Page 13, line 23, after “period” insert “on or after that day”

Page 13, line 41, after “(3)(b)” insert “includes a promise that”

Page 13, line 42, leave out “includes a promise that”

Page 13, line 44, leave out from beginning to end of line 4 on page 14 and insert—

“(b) the rate or amount of a benefit will represent a particular proportion of the available sum.”

Page 14, line 4, at end insert—

“( ) But a pension is not prevented from being a cash balance benefit merely because under the scheme there is a promise that—

(a) the rate or amount of a benefit payable in respect of a deceased member will be a particular proportion of the rate or amount of a benefit which was (or would have been) payable to the member;

(b) the amount of a lump sum payable to a member, or in respect of a deceased member, will represent a particular proportion of the available sum.”

After Clause 24

Insert the following new Clause—

“Definition of money purchase benefits

(1) In section 181 of the Pension Schemes Act 1993 (interpretation), in the definition of “money purchase benefits” in subsection (1), for “which are not average salary benefits” substitute “which fall within section 181B”.

(2) After section 181A of that Act insert—

“181B Money purchase benefits: supplementary

(1) This section applies for the purposes of the definition of “money purchase benefits” in section 181(1).

(2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member.

(3) A benefit which is a pension in payment falls within this section if—

(a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and

(b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).
(4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

(5) In this section references to a pension do not include income withdrawal or dependants’ income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004).

(3) In section 99 of the Pensions Act 2008 (interpretation) in the definition of “money purchase benefits” for “which are not average salary benefits” substitute “which fall within section 99A”.

(4) After that section insert—

“99A Money purchase benefits: supplementary

(1) This section applies for the purposes of the definition of “money purchase benefits” in section 99.

(2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member.

(3) A benefit which is a pension in payment falls within this section if—

(a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and

(b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).

(4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

(5) In this section references to a pension do not include income withdrawal or dependants’ income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004).

(5) In paragraph 1(2) of Schedule 10A to the Building Societies Act 1986 (disclosures about directors etc), in the definition of “money purchase benefits”, for “which are not average salary benefits” substitute “which fall within paragraph 1A”.

(6) In that Schedule, after paragraph 1 insert—

“1A (1) This paragraph applies for the purposes of the definition of “money purchase benefits” in paragraph 1(2).

(2) A benefit other than a pension in payment falls within this paragraph if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the director.

(3) A benefit which is a pension in payment falls within this paragraph if—
(a) its provision to or in respect of the director is secured by an annuity contract or insurance policy made or taken out with an insurer, and
(b) at all times before coming into payment the pension was a benefit falling within this paragraph by virtue of sub-paragraph (2).

(4) For the purposes of sub-paragraph (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

(5) In this paragraph references to a pension do not include income withdrawal or dependants’ income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004).”

(7) The amendments made by subsections (1) and (2) are to be regarded as having come into force on 1 January 1997.

(8) The amendments made by subsections (3) and (4) are to be regarded as having come into force at the same time as section 99 of the Pensions Act 2008.”

30 Insert the following new Clause—

“Transitional

(1) The Secretary of State may by regulations make transitional provision in relation to the coming into force of the amendments in section [Definition of money purchase benefits].

(2) That provision includes in particular—

(a) provision disapplying the amendments in section [Definition of money purchase benefits] in relation to an occupational or personal pension scheme which is wound up before the coming into force of that section;
(b) provision disapplying the amendments in section [Definition of money purchase benefits] to any extent, or as regards any period, in respect of an occupational or personal pension scheme in relation to which those amendments would otherwise have applied on the coming into force of that section;
(c) provision modifying the application of an enactment in respect of an occupational or personal pension scheme in relation to which the amendments in section [Definition of money purchase benefits] apply on the coming into force of that section;
(d) provision requiring trustees or managers of an occupational pension scheme in relation to which the amendments in section [Definition of money purchase benefits] apply on the coming into force of that section to obtain an actuarial valuation of a description specified in the regulations.

(3) In subsection (2) “occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the Pension Schemes Act 1993.”

31 Insert the following new Clause—
“Consequential and supplementary
(1) The Secretary of State may by regulations make consequential or supplementary provision in relation to the amendments made by section [Definition of money purchase benefits].
(2) In section 307 of the Pensions Act 2004 (modification of Act) in subsection (2) after paragraph (b) insert—
“(ba) Part 3 (scheme funding),”.

32 Insert the following new Clause—

“Power to make further provision
(1) The Secretary of State may by regulations amend for any purpose the definition of “money purchase benefit” in the Pension Schemes Act 1993, the Pensions Act 2008 or Schedule 10A to the Building Societies Act 1986.
(2) Regulations under subsection (1) may in particular amend the provisions inserted by section [Definition of money purchase benefits] above).
(3) Regulations under this section may include transitional, consequential or supplementary provision.”

33 Insert the following new Clause—

“Regulations
(1) Regulations under this Part may—
(a) make different provision for different cases (including different provision for pension schemes of different descriptions);
(b) provide for a person to exercise a discretion in dealing with any matter;
(c) amend Acts (as well as other enactments);
(d) have retrospective effect.
(2) Regulations under this Part must be made by statutory instrument.
(3) A statutory instrument containing regulations under this Part which amend an Act may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
(4) A statutory instrument containing any other regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.”

Clause 29
34 Page 19, line 1, at end insert—
“( ) sections [Transitional] to [Regulations];”

Clause 30
35 Page 19, line 20, leave out subsection (2)