

# Pension Schemes Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*[Amendments marked ★ are new or have been altered]*

Amendment  
No.

**After Clause 18**

LORD BRADLEY  
LORD McAVOY

- 1** Insert the following new Clause—
- “Fiduciary duty of trustees**
- (1) The Secretary of State may by regulations—
    - (a) require any pension scheme, which is not already overseen by independent trustees, to appoint a board of independent trustees; and
    - (b) set out the powers and duties of a board appointed under paragraph (a).
  - (2) Regulations under this section—
    - (a) shall be made by statutory instrument, and
    - (b) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
  - (3) The board of independent trustees shall have a fiduciary duty towards members of the scheme overseen by them.
  - (4) The fiduciary duty set out in subsection (3) shall take precedence over any duty to—
    - (a) the shareholders in, or
    - (b) other owners of,the operators of the scheme.
  - (5) In relation to any matters of member interest, decisions of the board of independent trustees shall be binding on the board of directors or other analogous bodies.”

Amendment  
No.

### Clause 45

#### LORD BOURNE OF ABERYSTWYTH

- 2 Page 19, line 24, at end insert –
- ““( ) regulations made under Schedule 17 to the Pensions Act 2014;
  - ( ) regulations made under Schedule 18 to the Pensions Act 2014;”
- 3 Page 19, line 27, at end insert –
- ““( ) regulations made under paragraph 17 of Schedule 17 to the Pensions Act 2014;
  - ( ) regulations made under paragraph 6 of Schedule 18 to the Pensions Act 2014;”

### Clause 48

#### LORD BOURNE OF ABERYSTWYTH

- 4 Page 20, line 30, leave out “create exceptions to subsection (1)” and insert –
- “(a) create an exception to subsection (1) in the case of a member or survivor whose subsisting rights in respect of safeguarded benefits under the scheme, or safeguarded benefits under the scheme and any other schemes, are worth less than a specified amount;
  - (b) create other exceptions to subsection (1).
- ( ) Regulations under subsection (3)(a) may, in particular, make provision about –
- (a) the valuation of the subsisting rights;
  - (b) the process for determining whether the exception applies.”
- 5 Page 21, leave out lines 1 and 2 and insert –
- ““appropriate independent advice” means advice that –
- (a) is given by an authorised independent adviser, and
  - (b) meets any other requirements specified in regulations made by the Secretary of State;
- “authorised independent adviser” means a person who –
- (a) has permission under Part 4A of the Financial Services and Markets Act 2000, or resulting from any other provision of that Act, to carry on a regulated activity specified in regulations made by the Secretary of State, and
  - (b) meets such other requirements as may be specified in regulations made by the Secretary of State for the purpose of ensuring that the person is independent;”

Amendment  
No.

**Clause 51**

LORD BOURNE OF ABERYSTWYTH

- 6 Page 22, line 21, leave out “create exceptions to subsection (1)” and insert—
- “(a) create an exception to subsection (1) in the case of a member or survivor whose subsisting rights in respect of safeguarded benefits under the scheme, or safeguarded benefits under the scheme and any other schemes, are worth less than a specified amount;
  - (b) create other exceptions to subsection (1).
- ( ) Regulations under subsection (3)(a) may, in particular, make provision about—
- (a) the valuation of the subsisting rights;
  - (b) the process for determining whether the exception applies.”
- 7 Page 22, leave out lines 31 and 32 and insert—
- ““appropriate independent advice” means advice that—
- (a) is given by an authorised independent adviser, and
  - (b) meets any other requirements specified in regulations made by the Department for Social Development in Northern Ireland;
- “authorised independent adviser” means a person who—
- (a) has permission under Part 4A of the Financial Services and Markets Act 2000, or resulting from any other provision of that Act, to carry on a regulated activity specified in regulations made by the Department for Social Development in Northern Ireland, and
  - (b) meets such other requirements as may be specified in regulations made by the Department for Social Development in Northern Ireland for the purpose of ensuring that the person is independent;”

**After Clause 60**

LORD BRADLEY  
LORD McAVOY

- 8 Insert the following new Clause—
- “Drawdown funds: cap on charges**
- The Secretary of State may make regulations imposing a cap on the charges that may be imposed on members of flexi-access drawdown funds.”

Amendment  
No.

**Before Clause 67**

LORD BRADLEY  
LORD McAVOY

9 Insert the following new Clause –

**“National Employment Savings Trust transfers**

In relation to NEST, within one month of the passing of this Act, the Secretary of State must lift the ban on transfers and the contribution cap.”

10 Insert the following new Clause –

**“Scale of pension schemes**

- (1) The fiduciary duty of pension scheme trustees shall include a duty to consider whether the scheme has sufficient scale to deliver good value for members.
- (2) Where trustees take the view that the scheme has insufficient scale, they must consider whether merger with another scheme would be in the members’ interests.
- (3) The Pensions Regulator shall have the power to direct merger of pensions schemes where it would be in the interests of the members of each of the relevant schemes for merger to take place.
- (4) The Pensions Regulator shall exercise this power in accordance with a methodology on which it has publicly consulted and which has been agreed with the Secretary of State.
- (5) The methodology set out in subsection (4) shall be kept under regular review and revised when necessary, subject to further consultation and agreement from the Secretary of State.”

**Before Clause 77**

LORD BRADLEY  
LORD McAVOY

11 Insert the following new Clause –

**“Decumulation**

- (1) A qualifying money purchase scheme may not sell annuities directly to anyone who has saved with the scheme unless this is the recommendation of an independent annuity broker.
- (2) A relevant scheme may provide an independent brokerage service itself.
- (3) A self-provided annuity brokerage service will be considered independent for the purposes of this Act if the provision of its services is subject to the direction of independent trustees.
- (4) Pension schemes shall ensure that any brokerage service selected or provided meets best practice in terms of providing members with –
  - (a) an assisted path through the annuity process;
  - (b) ensuring access to most annuity providers; and
  - (c) minimising costs.

**Amendment  
No.**

**Before Clause 77 – continued**

- (5) The standards meeting best practice for annuity brokerage services shall be defined by the Pensions Regulator after public consultation.
- (6) The standards set out in subsection (5) shall be reviewed every three years and, if required, updated.”

**After Clause 79**

LORD BOURNE OF ABERYSTWYTH

**12** Insert the following new Clause –

**“Public service pension schemes**

In Schedule 5 to the Public Service Pensions Act 2013 (meaning of “existing scheme”), in paragraph 1, after “1972” insert “other than a scheme which relates to staff of the Secret Intelligence Service or Security Service”.”

**Clause 83**

LORD BOURNE OF ABERYSTWYTH

**13** Page 47, line 4, after “containing” insert “ –  
( ) the first regulations under section 8(3)(b), 9, 10, 11 or 21,”

**14** Page 47, line 4, after “containing” insert “ –  
( ) regulations under section 48(3)(b), or  
( ) ”

**Clause 84**

LORD BOURNE OF ABERYSTWYTH

**15** Page 47, line 16, at end insert –  
“( ) Subsection (2) applies where regulations made by the Department for Social Development in Northern Ireland contain –  
(a) provision made under section 51(3)(b), or  
(b) provision made under section 82 that amends, repeals, revokes or otherwise modifies a provision of primary legislation,  
(whether alone or with other provision).”

**16** Page 47, line 17, leave out from “Where” to “, the” in line 19 and insert “this subsection applies”

**Clause 88**

LORD BOURNE OF ABERYSTWYTH

**17** Page 48, line 35, at end insert –  
“( ) section (*Public service pension schemes*);”

Amendment  
No.

## Schedule 2

### LORD BOURNE OF ABERYSTWYTH

- 18 Page 63, line 21, at end insert –  
 ““( ) regulations made under Schedule 17 to the Pensions Act 2014;  
 ( ) regulations made under Schedule 18 to the Pensions Act 2014;”
- 19 Page 63, line 24, at end insert –  
 ““( ) regulations made under paragraph 17 of Schedule 17 to the Pensions Act 2014;  
 ( ) regulations made under paragraph 6 of Schedule 18 to the Pensions Act 2014;”

## Schedule 3

LORD BRADLEY  
LORD McAVOY

- 20 Page 68, line 20, at end insert –  
 ““( ) must be sufficient to ensure that the body is capable of carrying out its functions under section 333C(1).”

LORD BRADLEY  
LORD McAVOY  
BARONESS HOLLIS OF HEIGHAM  
BARONESS GREENGROSS

- 21 Page 70, line 24, at end insert –  
 ““( ) must ensure that guidance includes the consequences of pensions flexibility on eligibility for income-related benefits and on assessment for care and support under section 17 of the Care Act 2014 (assessment of financial resources).”

LORD BRADLEY  
BARONESS DRAKE  
LORD McKENZIE OF LUTON  
BARONESS GREENGROSS

- 22 Page 74, line 17, at end insert –  
 ““( ) The FCA must secure an appropriate degree of protection for consumers whether they have used pensions guidance or otherwise throughout the decision-making and purchasing process, including safeguards to actively inform consumers of key risks and benefits.”

Amendment  
No.

**Schedule 3** – *continued*

LORD BRADLEY  
LORD McAVOY

**23** Page 80, line 37, at end insert –

*“Pension flexibility: Treasury review*

- (1) The Chancellor of the Exchequer shall, within a period of 18 months from 6 April 2015, publish and lay before both Houses of Parliament a comprehensive review of the impact of pension flexibilities.
- (2) The information published under subsection (1) must include –
  - (a) the distributional impact, by income decile of the population;
  - (b) a behavioural analysis;
  - (c) an analysis of the cumulative impact on Exchequer revenues;
  - (d) an analysis of the impact on the purchase of annuities.”

**24** Page 80, line 37, at end insert –

*“Pension flexibility: impact on government revenues*

- (1) The Chancellor of the Exchequer shall, within a period of 2 years from 6 April 2015, publish and lay before both Houses of Parliament a review of the impact of pension flexibility on government revenue, with particular reference to opportunities for tax and national insurance contributions avoidance.
- (2) The information published under subsection (1) should include an assessment of the impact on –
  - (a) the use of salary sacrifice arrangements;
  - (b) income tax receipts; and
  - (c) national insurance contributions.”

**Schedule 4**

LORD BOURNE OF ABERYSTWYTH

**25** Page 83, line 5, at end insert –

“( ) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;”

**26** Page 84, line 19, at end insert –

“( ) After subsection (6) insert –

“(6A) Regulations may extend the period specified in subsection (1A)(a) in prescribed circumstances.””

Amendment No.	<b>Schedule 4</b> – <i>continued</i>
27	<p>Page 85, line 19, at end insert –</p> <p style="padding-left: 40px;">“(3B) Where regulations under subsection (2)(b) provide for the cash equivalent shown in a statement of entitlement to be increased or reduced after the member has made an application under section 95, the regulations may provide for the application under section 95 to lapse (but this does not prevent the member making a fresh application in respect of the increased or reduced cash equivalent).”</p>
28	<p>Page 85, line 24, leave out from “period” to end of line 27 and insert “required by section 95(1A) or (6A).</p> <p style="padding-left: 40px;">(1A) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if, after the member makes an application under section 95, the duty of the trustees or managers to do what is needed to carry out what the member requires is extinguished by section 99(2A).</p> <p style="padding-left: 40px;">(1B) Nothing in subsection (1) or (1A) prevents the member from later acquiring a new right to take a cash equivalent in relation to the same benefits.”</p>
29	<p>Page 85, line 45, at end insert –</p> <p style="padding-left: 40px;">“( ) After subsection (4A) insert –</p> <p style="padding-left: 80px;">“(4B) Regulations may extend the period for compliance under subsection (2) or (3) in prescribed circumstances.”</p>
30	<p>Page 88, line 41, at end insert –</p> <p style="padding-left: 40px;">“( ) provide for this Chapter not to apply in relation to a person of a prescribed description;”</p>
31	<p>Page 89, line 35, at end insert –</p> <p style="padding-left: 40px;">“( ) Regulations may extend the period specified in subsection (2)(b) in prescribed circumstances.”</p>
32	<p>Page 90, line 23, at end insert –</p> <p style="padding-left: 40px;">“( ) After subsection (2) insert –</p> <p style="padding-left: 80px;">“(2A) Regulations may extend the period for complying with the notice in prescribed circumstances.”</p>
33	<p>Page 96, line 3, at end insert –</p> <p style="padding-left: 40px;">“( ) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;”</p>
34	<p>Page 97, line 15, at end insert –</p> <p style="padding-left: 40px;">“( ) After subsection (6) insert –</p> <p style="padding-left: 80px;">“(6A) Regulations may extend the period specified in subsection (1A)(a) in prescribed circumstances.”</p>



**Amendment  
No.**

**Schedule 4** – *continued*

- 35** Page 98, line 16, at end insert –
- “(3B) Where regulations under subsection (2)(b) provide for the cash equivalent shown in a statement of entitlement to be increased or reduced after the member has made an application under section 91, the regulations may provide for the application under section 91 to lapse (but this does not prevent the member making a fresh application in respect of the increased or reduced cash equivalent).”
- 36** Page 98, line 42, at end insert –
- “( ) After subsection (4A) insert –
- “(4B) Regulations may extend the period for compliance under subsection (2) or (3) in prescribed circumstances.”
- 37** Page 101, line 29, at end insert –
- “( ) provide for this Chapter not to apply in relation to a person of a prescribed description;”
- 38** Page 102, line 26, at end insert –
- “( ) Regulations may extend the period specified in subsection (2)(b) in prescribed circumstances.”
- 39** Page 103, line 14, at end insert –
- “( ) After subsection (2) insert –
- “(2A) Regulations may extend the period for complying with the notice in prescribed circumstances.”

**Schedule 5**

LORD BOURNE OF ABERYSTWYTH

- 40** Page 106, line 40, at end insert –
- “8 (1) Section 29 (regulations and orders) is amended as follows.
- (2) In subsection (2), after “other than” insert “regulations under section 18A above or”.
- (3) After subsection (2) insert –
- “(2A) A statutory instrument which contains regulations under section 18A 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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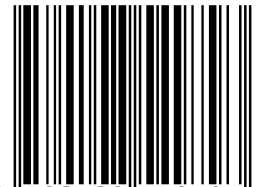
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