

Pension Schemes Bill [HL]

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

Clause 8

LORD MCKENZIE OF LUTON

Page 5, line 19, at end insert—

“(c) the impact of a collective money purchase scheme on private and public sector defined benefit schemes.”

Clause 14

BARONESS DRAKE

Page 9, line 8, after “scheme”, insert “or by an employer”

After Clause 28

LORD HUTTON OF FURNESS

Insert the following new Clause—

“Duty to notify the Pensions Regulator: fit and proper persons requirement

- (1) The trustees of an authorised collective money purchase scheme must notify the Pensions Regulator within two weeks of a person assuming a role listed in paragraphs (b) to (e) of section 11(2).
- (2) The Pensions Regulator must—
 - (a) assess whether the person in respect of whom notice is given under subsection (1) is a fit and proper person to act in the relevant capacity, and
 - (b) if it is not satisfied that the person is a fit and proper person to act in that capacity, consider whether to withdraw the scheme’s authorisation in accordance with section 30.”

Schedule 3

BARONESS STEDMAN-SCOTT

Page 131, line 18, at end insert—

“22 The Pensions Act 2014 is amended as follows.

Schedule 3 - continued

- 23 In section 54(2) (regulations subject to affirmative procedure), omit the “or” after paragraph (e) and at the end of paragraph (f) insert “, or
(g) the first regulations under paragraph 1 or 3 of that Schedule that make provision in relation to collective money purchase schemes within the meaning of Part 1 of the Pension Schemes Act 2020 (see section 1 of that Act).”
- 24 (1) Schedule 18 (power to restrict charges or impose requirements in relation to schemes) is amended as follows.
- (2) In paragraph 1(1) (power to restrict charges), in each of paragraphs (a) and (b), for “a member” substitute “members”.
- (3) In paragraph 4 (interpretation), after sub-paragraph (2) insert –
“(3) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2020 (see section 1(2)(b) of that Act) is to be treated for the purposes of this Schedule as a separate scheme.””

Member’s explanatory statement

This amendment ensures that regulations under Schedule 18 to the Pensions Act 2014 may be made in relation to collective money purchase schemes. The first such regulations will be subject to the affirmative procedure. The power to make regulations in relation to other types of scheme is unaffected.

Schedule 6

BARONESS STEDMAN-SCOTT

Page 139, line 22, at end insert –

- “22 The Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)) is amended as follows.
- 23 In section 51(4) (regulations subject to confirmatory procedure), omit the “or” after paragraph (e) and at the end of paragraph (f) insert “, or
(g) the first regulations under paragraph 1 or 3 of that Schedule that make provision in relation to collective money purchase schemes within the meaning of Part 2 of the Pension Schemes Act 2020 (see section 52 of that Act).”
- 24 (1) Schedule 18 (power to restrict charges or impose requirements in relation to schemes) is amended as follows.
- (2) In paragraph 1(1) (power to restrict charges), in each of paragraphs (a) and (b), for “a member” substitute “members”.
- (3) In paragraph 4 (interpretation), after sub-paragraph (2) insert –
“(3) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 2 of the Pension Schemes Act 2020 (see section 52(2)(b) of that Act) is to be treated for the purposes of this Schedule as a separate scheme.””

Member's explanatory statement

This amendment ensures that regulations under Schedule 18 to the Pensions Act (Northern Ireland) 2015 may be made in relation to collective money purchase schemes. The first such regulations will be subject to the confirmatory procedure. The power to make regulations in relation to other types of scheme is unaffected.

Clause 107

LORD HUTTON OF FURNESS

Page 91, line 33, leave out “detrimentally affects in a material way the likelihood of” and insert “wilfully or recklessly puts at risk”

Page 91, leave out lines 36 and 37

Page 93, line 32, leave out “detrimentally affected in a material way the likelihood of” and insert “wilfully or recklessly put at risk”

Page 93, leave out lines 36 and 37

After Clause 115

LORD MCKENZIE OF LUTON

Insert the following new Clause—

“Membership of defined benefit schemes

- (1) The Pensions Act 2004 is amended as follows.
- (2) In section 5(1) (regulator's objectives) after paragraph (d) insert—
“(e) to promote the membership of defined benefit schemes.””

Insert the following new Clause—

“Regulatory statement on new offences

By the end of the day after that on which this Act is passed, the Pensions Regulator must publish guidance for pensions schemes and trustees of pension schemes concerning the operation of law in respect of offences introduced by this Act, including—

- (a) conduct that constitutes a reasonable excuse for purpose of the offence of avoidance of employer debt under section 58A of the Pensions Act 2004,
- (b) conduct that constitutes a reasonable excuse for the purposes of the offence of conduct risking accrued scheme benefits under section 58B of the Pensions Act 2004, and
- (c) conduct that constitutes conduct that detrimentally affects in a material way the likelihood of accrued scheme benefits being received for the purposes of section 58A(2)(a) of the Pensions Act 2004.”

After Clause 123

BARONESS STEDMAN-SCOTT

Insert the following new Clause—

“Climate change risk

- (1) The Pensions Act 1995 is amended as follows.
- (2) After section 41 insert—

“41A Climate change risk

- (1) Regulations may impose requirements on the trustees or managers of an occupational pension scheme of a prescribed description with a view to securing that there is effective governance of the scheme with respect to the effects of climate change.
- (2) The effects of climate change in relation to which provision may be made under subsection (1) include, in particular—
 - (a) risks arising from steps taken because of climate change (whether by governments or otherwise), and
 - (b) opportunities relating to climate change.
- (3) The requirements which may be imposed by the regulations include, in particular, requirements about—
 - (a) reviewing the exposure of the scheme to risks of a prescribed description;
 - (b) assessing the assets of the scheme in a prescribed manner;
 - (c) determining, reviewing and (if necessary) revising a strategy for managing the scheme’s exposure to risks of a prescribed description;
 - (d) determining, reviewing and (if necessary) revising targets relating to the scheme’s exposure to risks of a prescribed description;
 - (e) measuring performance against such targets;
 - (f) preparing documents containing information of a prescribed description.
- (4) Regulations under subsection (3)(b) may, in particular, require assets to be assessed by reference to their exposure to risks of a prescribed description and may, for the purposes of such an assessment, require the contribution of such assets to climate change to be determined.
- (5) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Secretary of State.

41B Climate change risk: publication of information

- (1) Regulations may require the trustees or managers of an occupational pension scheme of a prescribed description to publish information of a prescribed description relating to the effects of climate change on the scheme.
- (2) Regulations under subsection (1) may, among other things—
 - (a) require the trustees or managers to publish a document of a prescribed description;
 - (b) require information or a document to be made available free of charge;

After Clause 123 - continued

- (c) require information or a document to be provided in a form that is or by means that are prescribed or of a prescribed description.
- (3) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Secretary of State.

41C Sections 41A and 41B: compliance

- (1) Regulations may make provision with a view to ensuring compliance with a provision of regulations under section 41A or 41B.
- (2) The regulations may in particular –
 - (a) provide for the Authority to issue a notice (a “compliance notice”) to a person with a view to ensuring the person’s compliance with a provision of regulations under section 41A or 41B;
 - (b) provide for the Authority to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person’s compliance with a provision of regulations under section 41A or 41B;
 - (c) provide for the Authority to issue a notice (a “penalty notice”) imposing a penalty on a person where the Authority are of the opinion that the person –
 - (i) has failed to comply with a compliance notice or third party compliance notice, or
 - (ii) has contravened a provision of regulations under section 41A or 41B;
 - (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
 - (e) confer other functions on the Authority.
- (3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.
- (4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed –
 - (a) £5,000, in the case of an individual, and
 - (b) £50,000, in any other case.”
- (3) In section 116 (breach of regulations), in subsection (3)(b), after “10” insert “or under provision contained in regulations made by virtue of section 41C ”.
- (4) In section 175 (Parliamentary control of orders and regulations) –
 - (a) in subsection (1), after “(2)” insert “, (2A)”;
 - (b) after subsection (2) insert –
 - “(2A) A statutory instrument which contains the first regulations made by virtue of section 41A or 41C must 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 amendment imposes requirements on trustees and managers of certain occupational pension schemes as regards taking into account the effects of climate change and publishing information relating to those effects.

Clause 124

BARONESS STEDMAN-SCOTT

Page 118, line 11, after “(d)” insert “, (2A)(a), (b) or (d)”

Member’s explanatory statement

This amendment extends to unfunded public service defined benefits schemes the requirement that prescribed conditions are satisfied before trustees or managers may use a cash equivalent to buy into other pension arrangements.

Clause 128

BARONESS STEDMAN-SCOTT

Page 120, line 33, after “sections” insert “(Climate change risk) and”

Member’s explanatory statement

This amendment is consequential upon the Minister’s amendment to insert a new Clause after Clause 123.

After Clause 128

LORD MCKENZIE OF LUTON

Insert the following new Clause—

“Report on public sector defined benefit schemes

The Secretary of State must, at the end of the period of six months beginning on the day on which this Act is passed, lay before both Houses of Parliament a strategy for protecting public sector defined benefit schemes.”

Schedule 11

BARONESS STEDMAN-SCOTT

Page 186, line 16, at end insert—

“11A (1) The Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) is amended as follows.

(2) After Article 41 insert—

“41A Climate change risk

- (1) Regulations may impose requirements on the trustees or managers of an occupational pension scheme of a prescribed description with a view to securing that there is effective governance of the scheme with respect to the effects of climate change.
- (2) The effects of climate change in relation to which provision may be made under paragraph (1) include, in particular—
 - (a) risks arising from steps taken because of climate change (whether by governments or otherwise), and
 - (b) opportunities relating to climate change.
- (3) The requirements which may be imposed by the regulations include, in particular, requirements about—

Schedule 11 - continued

- (a) reviewing the exposure of the scheme to risks of a prescribed description;
 - (b) assessing the assets of the scheme in a prescribed manner;
 - (c) determining, reviewing and (if necessary) revising a strategy for managing the scheme's exposure to risks of a prescribed description;
 - (d) determining, reviewing and (if necessary) revising targets relating to the scheme's exposure to risks of a prescribed description;
 - (e) measuring performance against such targets;
 - (f) preparing documents containing information of a prescribed description.
- (4) Regulations under paragraph (3)(b) may, in particular, require assets to be assessed by reference to their exposure to risks of a prescribed description and may, for the purposes of such an assessment, require the contribution of such assets to climate change to be determined.
- (5) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Department.

41B Climate change risk: publication of information

- (1) Regulations may require the trustees or managers of an occupational pension scheme of a prescribed description to publish information of a prescribed description relating to the effects of climate change on the scheme.
- (2) Regulations under paragraph (1) may, among other things –
- (a) require the trustees or managers to publish a document of a prescribed description;
 - (b) require information or a document to be made available free of charge;
 - (c) require information or a document to be provided in a form that is or by means that are prescribed or of a prescribed description.
- (3) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Department.

41C Articles 41A and 41B: compliance

- (1) Regulations may make provision with a view to ensuring compliance with a provision of regulations under Article 41A or 41B.
- (2) The regulations may in particular –
- (a) provide for the Authority to issue a notice (a “compliance notice”) to a person with a view to ensuring the person's compliance with a provision of regulations under Article 41A or 41B;
 - (b) provide for the Authority to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person's compliance with a provision of regulations under Article 41A or 41B;

Schedule 11 - continued

- (c) provide for the Authority to issue a notice (a “penalty notice”) imposing a penalty on a person where the Authority are of the opinion that the person—
 - (i) has failed to comply with a compliance notice or third party compliance notice, or
 - (ii) has contravened a provision of regulations under Article 41A or 41B;
 - (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
 - (e) confer other functions on the Authority.
- (3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.
- (4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—
- (a) £5,000, in the case of an individual, and
 - (b) £50,000, in any other case.
- (5) In this Article “First-tier Tribunal” and “Upper Tribunal” mean those tribunals established under section 3 of the Tribunals, Courts and Enforcement Act 2007.”
- (3) In Article 113 (breach of regulations), in paragraph (3)(b), after “10” insert “or under provision contained in regulations made by virtue of Article 41C”.
- (4) In Article 167 (Assembly, etc. control of orders and regulations), after paragraph (3) insert—
- “(3A) Paragraph (2) also applies in relation to the first regulations made by virtue of Article 41A or 41C (whether made alone or with other regulations).”

Member’s explanatory statement

This amendment makes provision for Northern Ireland that is equivalent to the provision made by the Minister’s amendment to insert a new Clause after Clause 123.

Page 186, line 22, after “(d)” insert “, (2A)(a), (b) or (d)”

Member’s explanatory statement

This amendment makes provision for Northern Ireland that is equivalent to the provision made by the Minister’s amendment at page 118, line 11.

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11 February 2020
