

Pension Schemes Bill [HL]

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 4th February 2020, as follows –

Clauses 1 to 6	Clause 47
Schedule 1	Clause 98
Clauses 52 to 57	Clause 48
Schedule 4	Schedule 3
Clauses 7 to 17	Clause 99
Clauses 58 to 68	Schedule 6
Clauses 18 to 23	Clauses 49 to 51
Clauses 69 to 74	Clauses 100 to 116
Clauses 24 and 25	Schedule 7
Clauses 75 and 76	Clause 117
Clauses 26 to 30	Schedule 8
Clauses 77 to 81	Clauses 118 to 120
Clauses 31 to 44	Schedule 9
Schedule 2	Clauses 121 to 123
Clause 45	Schedule 10
Clauses 82 to 95	Clauses 124 to 128
Schedule 5	Schedule 11
Clause 96	Clauses 129 to 131
Clause 46	Title
Clause 97	

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 109

LORD VAUX OF HARROWDEN
BARONESS BOWLES OF BERKHAMSTED

27 Page 95, line 15, at end insert –

“() In particular, the declaration of a dividend by the employer is a notifiable event for the purposes of subsection (1) if –

Clause 109 - continued

- (a) the value of the assets of the scheme is less than the amount of the liabilities of the scheme,
- (b) the amount of the dividend exceeds the annual deficit repair contribution, and
- (c) the amount of the annual deficit repair contribution is less than 20% of the difference between the value of the assets of the scheme and the amount of the liabilities of the scheme.”

Clause 110

BARONESS ALTMANN
BARONESS HAYMAN

28 Page 97, line 2, at end insert –

“72B Provision of information: further provision

- (1) The Regulator may, by notice in writing, require the trustees of a scheme to which section 35 of the Pensions Act 1995 applies to provide information as set out in subsection (5).
- (2) A notice under subsection (1) may include a requirement for information –
 - (a) to be disclosed to the Regulator on a periodic basis, and
 - (b) in respect of specified periods of time.
- (3) Where the provision of information is required by a notice under subsection (1), the information must be provided in such a manner, at such a place and within such a period as may be specified in the notice.
- (4) The Regulator must publish information provided in respect of the provisions set out in subsection (5) on its website within one month of receiving it in a form that is searchable and easily accessible.
- (5) For the purposes of subsection (1), information to be provided on request of the Regulator is any information set out in –
 - (a) regulation 29A of the Occupational and Personal Pension Scheme (Disclosure of Information) Regulations 2013 (publishing charges and transaction costs and other relevant information), and
 - (b) paragraph 30 of Schedule 3 of the Occupational and Personal Pension Scheme (Disclosure of Information) Regulations 2013.”

Member’s explanatory statement

This amendment would place a reporting duty on the Pensions Regulator to publish statements of investment principles (SIPs) under section 35 of the Pensions Act 1995. The amendment would place a requirement on the Pensions Regulator to create a SIP repository, accessible to the public through its website, so that all scheme members could check their scheme’s investment strategy.

Clause 112

LORD SHARKEY

29 Page 99, line 7, leave out “£50,000” and insert “£1 million”

Clause 112 - continued

30 Page 100, line 2, leave out “£10,000” and insert “£50,000”

Clause 115

BARONESS BOWLES OF BERKHAMSTED
BARONESS JANKE

31 Page 102, line 29, leave out “£1 million” and insert “twice the employer’s pension deficit or 4% of the employer’s annual global turnover (whichever is greater)”

LORD SHARKEY

32 Page 102, line 29, leave out “£1 million” and insert “£50 million”

After Clause 115

BARONESS BOWLES OF BERKHAMSTED
BARONESS JANKE

33 Insert the following new Clause—

“Report for the purposes of the Company Directors Disqualification Act 1986

- (1) The Pensions Regulator must make a report to the Secretary of State under this section if the circumstances in subsection (2) apply.
- (2) The circumstances in this subsection are where—
 - (a) a person has been convicted of an offence under this Act or another offence related to a pension scheme,
 - (b) it appears to the Pensions Regulator that a person has committed an offence under this Act or another offence related to a pension scheme, or
 - (c) a person is fined under section 88A of the Pensions Act 2004.
- (3) In the report under subsection (1) the Pensions Regulator must—
 - (a) identify the person,
 - (b) identify, where the person is a corporate body, any person who was a director of it at the time any offence was committed or appears to have been committed,
 - (c) report on any facts which appear to the Pensions Regulator to be relevant to the Secretary of State for the purpose of making a decision under section 8(1) of the Company Directors Disqualification Act 1986, and
 - (d) state whether the Pensions Regulator considers that, having regard to the need for public confidence in the system of pensions regulation, it would be expedient in the public interest for any person so identified to be the subject of a disqualification order.
- (4) But the Pensions Regulator is not to be required to make a report to the Secretary of State in respect of a person if—

After Clause 115 - continued

- (a) that person is a director who is the subject of a disqualification order under section 2 of the Company Directors Disqualification Act 1986 in respect of a criminal offence, or
- (b) in the case of a fine under section 88A of the Pensions Act 2004, it appears to the Pensions Regulator that no public interest would be served in making a disqualification order against that person.”

LORD MCKENZIE OF LUTON
BARONESS SHERLOCK

34 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.””

BARONESS SHERLOCK

35 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 the purposes of the offence of conduct risking accrued scheme benefits under section 58B of the Pensions Act 2004, and
- (b) 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.”

BARONESS BENNETT OF MANOR CASTLE

36 Insert the following new Clause –

“Duty to publish information on the statement of investment principles

- (1) The Pensions Act 1995 is amended as follows.
- (2) In section 35 (investment principles), after subsection (6) insert –
“(6A) The most recent version of the statement of investment principles for the scheme must be made available to the Pensions Regulator each year.
(6B) The most recent version of –
 (a) the implementation statement, and
 (b) the chair's statement
for the scheme must be made available to the Pensions Regulator every three years.””

Member’s explanatory statement

This amendment is to ensure all scheme SIPs, implementation statements and chair’s statements are made available to the Pensions Regulator.

Clause 118

BARONESS DRAKE

37 Page 105, line 4, after “service” insert “(which may be publicly or privately owned)”

LORD YOUNG OF COOKHAM

38 Page 105, line 7, at end insert “or any person named as a beneficiary under that individual’s pension scheme”

BARONESS SHERLOCK
BARONESS DRAKE

39 Page 105, line 9, at end insert –

“() Requirements prescribed under subsection (2) must include a requirement that a pensions dashboard service may not engage in financial transaction activities.”

BARONESS ALTMANN
LORD FLIGHT

40 Page 105, line 9, at end insert –

“() Requirements prescribed under subsection (2) must require that information about state pensions includes projected state pension at retirement.”

41 Page 105, line 9, at end insert –

“() Requirements prescribed under subsection (2) must require that the provision of pensions dashboard services is an activity regulated by the FCA.”

BARONESS SHERLOCK

42 Page 105, line 9, at end insert –

“() Requirements prescribed under subsection (2) must require that the provision of data by private pension schemes to pensions dashboard services and the provision of pensions dashboard services are activities regulated by the Financial Conduct Authority.”

LORD YOUNG OF COOKHAM
LORD FLIGHT

43 Page 105, line 20, at end insert –

“(iii) an individual’s additional assets capable of being included in a pension scheme and of providing a pension income;”

Clause 118 - continued

LORD YOUNG OF COOKHAM

44 Page 105, line 28, at end insert –

“() information of a prescribed description relating to the individual’s pension assets and other assets capable of being included in a pension scheme and of providing a pension income, which may be made available to the pensions dashboard service through an authorised and regulated financial adviser.”

45 Page 106, leave out line 32

BARONESS BOWLES OF BERKHAMSTED

46 Page 107, line 28, at end insert –

“() Any regulations made under section 238A or this section which make provision for privately owned or commercial providers of pensions dashboard services to enter service must include provision about –

- (a) designation of the responsible regulators for –
 - (i) operators of the pensions dashboards,
 - (ii) displayed dashboard information,
 - (iii) conduct relating to the use of data,
 - (iv) advertising, and
 - (v) revenue generation from the pensions dashboard service for the provider, including revenue from advertising;
- (b) redress mechanisms and designation of the responsible body for claims arising from harm to users of a pensions dashboard service including for loss or improper use of data;
- (c) mechanisms to mitigate the risk of fraud;
- (d) rules about type of content, presentation of information, assumptions regarding predicted pension income, valuation, projections, risks and comparisons;
- (e) rules about advertising on the pensions dashboard service and any revenue generated from the pensions dashboard service for the provider of the pensions dashboard service or any third party;
- (f) display of charges or any commission received by the dashboard provider for any services, transfer of funds or purchases available through the pensions dashboard service, and
- (g) display of the projected cash effect on expected pension income or lump sum outcomes of any services, transfer of funds or purchases available through the pensions dashboard service.”

BARONESS DRAKE
BARONESS SHERLOCK

47 Page 107, line 28, at end insert –

“238BA Publicly owned pensions dashboard service

- (1) The Secretary of State must designate a public body to provide a publicly owned pensions dashboard service.

Clause 118 - continued

- (2) The governance, control and ownership of the service may not be delegated or transferred from a public body.
- (3) The public body must not charge fees for the use of its service or display advertising on the dashboard.”

48 Page 107, line 28, at end insert –

“238BB Publicly owned pensions dashboard service review

The Secretary of State must not make regulations to allow privately owned pensions dashboard services to enter the market until –

- (a) the publicly owned pensions dashboard service designated under section 238BA has been operating for at least one year, and
- (b) the Secretary of State has laid before each House of Parliament a review of the structure and effectiveness of the publicly owned pensions dashboard service.”

Clause 119

BARONESS SHERLOCK
LORD FLIGHT
BARONESS ALTMANN

49 Page 109, line 4, at end insert –

“() the estimated retirement income of the scheme,”

50 Page 109, line 4, at end insert –

“() the total cost of charges incurred for the administration of the scheme,”

BARONESS BENNETT OF MANOR CASTLE

51 Page 109, line 4, at end insert –

“() the protected characteristics of the trustee board members, including information on age, gender and ethnicity,”

Member’s explanatory statement

This amendment is to require the addition of information to the dashboard on the diversity of the scheme’s trustee board.

BARONESS HAYMAN
BARONESS JONES OF WHITCHURCH
BARONESS BENNETT OF MANOR CASTLE
BARONESS JANKE

52 Page 109, line 9, at end insert –

- “() information on how scheme investments –
 - (i) have due regard to environmental factors including climate change as set out in the UK Stewardship Code, and

Clause 119 - continued

- (iii) align with the objectives of the Paris Agreement to hold the increase in the global average temperature to well below 2°C.”

LORD FLIGHT

53 Page 109, line 46, at end insert –

- “() The Secretary of State must publish a report within six months of this section coming into force containing a timeline of when the following information will be available on pensions dashboards –
- (a) information relating to how much income members are likely to receive under the scheme when they retire; and
 - (b) information relating to charges paid by individual members of pension schemes.”

BARONESS ALTMANN

54 Page 111, line 45, at end insert –

“238FA Accuracy of occupational pension scheme information

Regulations must impose requirements on the trustees or managers or administrators of a relevant occupational pension scheme to ensure that information held in respect of each member which may be submitted to a pensions dashboard service is regularly checked for accuracy and any errors are corrected within six months.”

Member’s explanatory statement

This amendment aims to ensure that those running pension schemes must check data for accuracy and any errors are corrected regularly to prevent incorrect and misleading information appearing on a user’s pensions dashboard.

55 [Withdrawn]

56 [Withdrawn]

Schedule 9

BARONESS ALTMANN

LORD FLIGHT

57 Page 171, line 35, at end insert –

- “() Requirements prescribed under paragraph (2) must require that information about state pensions includes projected state pension at retirement.”

58 Page 171, line 35, at end insert –

- “() Requirements prescribed under paragraph (2) must require that the provision of pensions dashboard services is an activity regulated by the FCA.”

Schedule 9 - continued

BARONESS SHERLOCK

59 Page 171, line 35, at end insert –

“() Requirements prescribed under paragraph (2) must require that the provision of data by private pension schemes to pensions dashboard services and the provision of pensions dashboard services are activities regulated by the Financial Conduct Authority.”

BARONESS DRAKE
BARONESS SHERLOCK

60 Page 173, line 38, at end insert –

“215BA Publicly owned pensions dashboard service

- (1) The Department must designate a public body to provide a publicly owned pensions dashboard service.
- (2) The governance, control and ownership of the service may not be delegated or transferred from a public body.
- (3) The public body must not charge fees for the use of its service or display advertising on the dashboard.”

61 Page 173, line 38, at end insert –

“215BB Publicly owned pensions dashboard service review

Regulations must not allow privately owned pensions dashboard services to enter the market until –

- (a) the publicly owned pensions dashboard service designated under Article 215BA has been operating for at least one year, and
- (b) the Department has laid before the Assembly a review of the structure and effectiveness of the publicly owned pensions dashboard service.”

LORD FLIGHT

62 Page 175, line 4, at end insert –

“() how much pension income members may receive when they retire,
() member-level charges, and”

Member’s explanatory statement

The aim of this amendment is to add information about how much income members could have when they retire, and information about member level charges, to the list of pensions information (in relation to occupational pension schemes in Northern Ireland) that could be provided to dashboards.

63 Page 175, line 10, at end insert –

“() The Department must publish a report within six months of this section coming into force containing a timeline of when the following information will be available on pensions dashboards –
(a) information relating to how much income members are likely to receive under the scheme when they retire; and

Schedule 9 - continued

- (b) information relating to charges paid by individual members of pension schemes.”

Member’s explanatory statement

The amendment is to ensure the amendments tabled to Clause 119 are replicated for Northern Ireland.

Clause 121

LORD MCKENZIE OF LUTON
BARONESS SHERLOCK
BARONESS ALTMANN

- 64 Page 113, line 12, after “make” insert “and enforce”

BARONESS ALTMANN

- 65 Page 113, line 14, after “information” insert “which has been regularly checked for accuracy and corrected”

Member’s explanatory statement

This amendment aims to ensure the FCA imposes duties on those running the pension scheme to ensure data are checked for accuracy and any errors are corrected regularly, to prevent users being misled about their pensions.

LORD MCKENZIE OF LUTON
BARONESS SHERLOCK
LORD HUTTON OF FURNESS
BARONESS ALTMANN

- 66 Page 113, line 21, at end insert –

“() The FCA must create an authorisation and supervision regime for pensions dashboard services.”

LORD FLIGHT

- 67 Page 113, line 34, at end insert –

“() how much pension income members may receive when they retire,
() member-level charges, and”

Member’s explanatory statement

The amendment is to add information about how much income members could have when they retire, and information about member level charges, to the list of pensions information (in relation to personal and stakeholder pension schemes) that could be provided to dashboards.

BARONESS BENNETT OF MANOR CASTLE

- 67A★ Page 113, line 34, at end insert –

“() how scheme investments take environmental, social and governance factors, including climate change, into account,”

Member's explanatory statement

This amendment is to add information to the dashboard about how schemes take environment, social and governance factors into account in investment decision making.

67B★

Page 113, line 34, at end insert—

“() how scheme investments take into account the views of beneficiaries,”

Member's explanatory statement

This amendment is to add information to the dashboard on how schemes have considered members' views.

LORD MCKENZIE OF LUTON
BARONESS SHERLOCK
LORD HUTTON OF FURNESS
BARONESS ALTMANN

68

Page 113, line 40, at end insert—

“() Rules made by virtue of subsection (1) must ensure that specified authorised persons, in providing qualifying pensions dashboard services, have a fiduciary duty to act in the interests of savers.”

LORD MCKENZIE OF LUTON
BARONESS SHERLOCK

69

Page 116, line 6, after “consult” insert “the public and”

Clause 122

LORD YOUNG OF COOKHAM
LORD SHARKEY

70

Page 117, line 8, leave out “may” and insert “must”

LORD YOUNG OF COOKHAM

71

Page 117, line 13, at end insert “no later than 31 December 2023”

After Clause 122

BARONESS NEVILLE-ROLFE

72

Insert the following new Clause—

“Pension dashboards: impact assessment

Within six months of the passing of this Act the Secretary of State must lay an impact assessment before each House of Parliament setting out the expected costs of the provisions of this Part for businesses, and governmental and non-profit organisations.”

After Clause 123

BARONESS STEDMAN-SCOTT

73 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.

BARONESS HAYMAN
 BARONESS JONES OF WHITCHURCH
As an amendment to Amendment 73

74 In inserted section 41A(1), leave out “an occupational”, and insert “a”

BARONESS HAYMAN
 BARONESS JONES OF WHITCHURCH
 BARONESS JANKE
As an amendment to Amendment 73

75 In inserted section 41A(1), after “change” insert “to align with the objectives of the Paris Agreement to hold the increase in the global average temperature to well below 2°C”

BARONESS HAYMAN
 BARONESS JONES OF WHITCHURCH
As an amendment to Amendment 73

76 In inserted section 41B(1), leave out “an occupational”, and insert “a”

Clause 124

BARONESS STEDMAN-SCOTT

77 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.

BARONESS ALTMANN

78 Page 118, line 18, at end insert –

“() providing trustees or managers with evidence that the member’s spouse or civil partner consents to the taking of the cash equivalent in connection with existing or prospective arrangements for pension sharing on divorce or dissolution.”

Member’s explanatory statement

This amendment requires a member who wishes to take transfer out of their pension scheme to provide evidence that their spouse or partner approves of the transfer.

After Clause 124

LORD SHARKEY
 BARONESS ALTMANN

79 Insert the following new Clause –

“Consumer protection on pension drawdown or transfer

- (1) Pension scheme providers must not comply with an application of a member of a scheme to transfer their funds out of the scheme into another pension or to exercise the right to take a cash equivalent transfer (under section 94 of the Pension Schemes Act 1993) unless –

After Clause 124 - continued

- (a) the member demonstrates that he or she has received independent financial advice from an authorised or regulated independent adviser pertaining to the proposed transfer out of the scheme or exercising the right to cash equivalent, or
 - (b) 60 days have elapsed since the application was made in writing, or
 - (c) the member has provided responses to approved questions laid down in regulations to ascertain whether the member has detailed knowledge of the scheme to which rights are being transferred and whether the provenance of the transfer request originated from an unsolicited phone call or other unsolicited communication.
- (2) The condition in subsection (1)(a) may be satisfied by written confirmation from Pension Wise that they have given guidance to the member either orally or by other means relating to this transfer or cash equivalent transfer request.”

After Clause 125

LORD BALFE
BARONESS ALTMANN
LORD SHARKEY

80 Insert the following new Clause—

“Compensation payments under Pension Protection Fund

In Schedule 7 to the Pensions Act 2004 omit paragraphs 26, 26A and 27 (compensation cap).”

Clause 128

BARONESS STEDMAN-SCOTT

81 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

82 Insert the following new Clause—

“Pension Schemes Commission

- (1) Within six months of the passing of this Act, the Secretary of State must establish a Pension Schemes Commission to—
 - (a) conduct a strategic review of public policy regarding pension schemes, and
 - (b) make recommendations.
- (2) The Secretary of State must respond to reports from the Pension Schemes Commission with a written statement laid before each House of Parliament.”

After Clause 128 - continued

BARONESS NEVILLE-ROLFE

83 Insert the following new Clause—

“Tapered reduction of annual pension tax allowance: review

Within 6 months of the passing of this Act, the Secretary of State must conduct a review of how legislation and policy governing pension schemes could be adjusted to mitigate adverse effects of the tapered reduction of annual allowance under section 228ZA of Finance Act 2004, and lay a report before each House of Parliament.”

LORD BALFE

BARONESS ALTMANN

LORD SHARKEY

84 Insert the following new Clause—

“Approval of proposed distributions by public companies

(1) The Companies Act 2006 is amended as follows.

(2) After section 830 insert—

“830A Approval of proposed distributions by public companies: pension schemes

A public company may only make a distribution if it has received written approval for the proposed distribution from—

- (a) the trustees of any pension scheme responsible for the pensions of current or former employees of the company, and
- (b) the Pensions Regulator.””

LORD MCKENZIE OF LUTON

85 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.”

LORD WARNER

BARONESS ALTMANN

BARONESS JANKE

86 Insert the following new Clause—

“National Health Service Pension Schemes: tax charges

- (1) The Secretary of State must by regulations made by statutory instrument make provision to ensure that the National Health Service Pension Schemes reimburse their members for pension tax charges to the extent necessary to fulfil the objective of subsection (2).
- (2) The objective of this subsection is that in any tax year, for a member of the National Health Service Pension Schemes, the member’s income less annual allowance pension tax charges is not smaller if the member’s income is greater.

After Clause 128 - continued

- (3) 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.”

BARONESS JANKE

87 Insert the following new Clause—

“Automatic enrolment age

In section 3(1)(a) of the Pensions Act 2008, for “22” substitute “18”.

88 Insert the following new Clause—

“Review of automatic enrolment

- (1) Within six months of the passing of this Act the Secretary of State must lay before Parliament a review of whether the operation of automatic enrolment is effective.
- (2) The review must take account of, but is not limited to,—
- (a) whether the age at which a jobholder is enrolled in an automatic enrolment scheme should be lowered,
 - (b) whether the minimum contribution percentage should be raised, and
 - (c) whether existing legislation offers sufficient opportunity for low-paid workers to save for retirement.
- (3) The review must make a recommendation as to whether the Government should bring forward further legislation in light of its findings.”

89 Insert the following new Clause—

“Reporting on compliance with the Paris Agreement

- (1) The Occupational Pension Schemes (Investment) Regulations 2005 are amended as follows.
- (2) After paragraph (3)(b) of regulation 2 (statement of investment principles), insert—
- “(ba) where financially material considerations relating to climate change and the environment are made, whether the trust scheme aligns with objective of the United Nations Paris Agreement 2015 to hold the increase in global average temperature to well below 2°C, and”

After Clause 128 - continued

BARONESS DRAKE

90 Insert the following new Clause—

“Automatic enrolment contributions for relevant parents and carers: review

Within 6 months of the passing of this Act, the Secretary of State must conduct a review of how legislation may provide for people to receive a level of contribution towards automatic enrolment pension schemes in respect of periods when they are relevant parents and carers for the purposes of section 23A (contributions credits for relevant parents and carers) of the Social Security Contributions and Benefits Act 1992, and lay a report of the findings of the review before each House of Parliament.”

91 Insert the following new Clause—

“Sex equality impacts of automatic enrolment to pension schemes

- (1) Within 6 months of the passing of this Act, the Secretary of State must conduct a review of differences between—
 - (a) women and men,
 - (b) women and men with different protected characteristics,
 - (c) women and men working for different sized employers, and
 - (d) women and men in different earnings deciles,in regard to automatic enrolment into pension schemes.
- (2) The review in subsection (1) must be conducted with regard to—
 - (a) membership of pension schemes as a result of automatic enrolment;
 - (b) the value of pensions held; and
 - (c) how legislation and policy could correct any inequalities between women and men identified in regard to subsection (1)(a) to (d).”

BARONESS HAYMAN

BARONESS JONES OF WHITCHURCH

BARONESS ALTMANN

BARONESS JANKE

92 Insert the following new Clause—

“Consultation on the Task Force on Climate-related Financial Disclosures recommendations

The Secretary of State must, at the end of the period of one month beginning on the day on which this Act is passed, commence a consultation on implementing the recommendations of the Task Force on Climate-related Financial Disclosures as they relate to pensions schemes, and must lay a report before both Houses of Parliament of the outcome of the consultation within one year of its beginning.”

After Clause 128 - continued

BARONESS ALTMANN
BARONESS BOWLES OF BERKHAMSTED

93 Insert the following new Clause—

“Suitability of pension schemes for automatic enrolment

- (1) The Secretary of State must by regulations made by statutory instrument make provision to require that, where an employer makes arrangements by which a jobholder to whom section 3 of the Pensions Act 2008 applies, or a worker to whom section 9 of that Act applies, becomes an active member of an automatic enrolment or other pension scheme, the employer and the trustees, managers and administrators of the scheme have ensured that it is suitable for low-paid jobholders or entitled workers such that they are treated fairly in connection with their contributions.
- (2) 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 amendment aims to ensure that employers, trustees, managers and administrators have assessed the scheme they use for auto-enrolment to ascertain that it treats low paid staff fairly and does not force them to pay additional contributions to replace tax relief they have lost.

BARONESS ALTMANN

94 Insert the following new Clause—

“Multi-employer pensions scheme

The trustees of a multi-employer pension scheme may cancel a debt which became due from a departing employer before the coming into force of this section in relation to the scheme under section 75 of the Pensions Act 1995 if—

- (a) failure to pay the debt would not materially reduce the scheme’s assets relative to the estimated debt in relation to the scheme,
- (b) the majority of the debt relates to liabilities in respect of members working for employers no longer participating in the scheme,
- (c) the employer has not done an act or engaged in a course of conduct that detrimentally affected in a material way the likelihood of accrued scheme benefits being received (whether the benefits are to be received as benefits under the scheme or otherwise),
- (d) at the time of the cessation of the employer’s participation in the scheme, the scheme was estimated to have sufficient and appropriate assets to cover its technical provisions and the employer had no reason to believe there was a significant scheme deficit,
- (e) the employer has been operating as an unincorporated business and the owner would face personal bankruptcy, or the employer has been operating as a small business which would become insolvent, if required to pay the debt,

After Clause 128 - continued

- (f) the debt is below a *de minimis* threshold in relation to the size of the overall scheme 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
- (g) the employer has always taken all reasonable steps to fund the scheme as demanded by the trustees before the employer cessation event.”

LORD MCKENZIE OF LUTON

95 Insert the following new Clause –

“Automatic enrolment criteria

- (1) The Pensions Act 2008 is amended as follows.
- (2) In section 3(1)(a), for “22” substitute “18”.
- (3) In section 3(1)(c), for “earnings of more than £10,000” substitute “any earnings”.
- (4) In section 13, omit subsection (1)(a).”

BARONESS JANKE

96 Insert the following new Clause –

“Review of the impact of the pensions schemes framework on women

- (1) Within six months of the passing of this Act the Secretary of State must lay before Parliament a review of the impact of the public policy regarding pension schemes on women.
- (2) The review must make reference to but is not limited to steps that the Government are, or should be, taking in regard to pension schemes to close the “pensions gap” between men and women.
- (3) The review must make a recommendation as to whether the Government should bring forward further legislation in light of its findings.”

BARONESS BENNETT OF MANOR CASTLE

97 Insert the following new Clause –

“Duty to consult members on investment principles

- (1) The Occupational Pension Schemes (Investment) Regulations 2005 are amended as follows.
- (2) After paragraph (2)(a) of regulation 2 insert –
“(aa) consult members of the scheme; and”

Schedule 11

BARONESS STEDMAN-SCOTT

98 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 –

Schedule 11 - continued**“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 –
 - (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

Schedule 11 - continued

- (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;
 - (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.

99

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.

Before Clause 129

BARONESS NEVILLE-ROLFE

100 Insert the following new Clause—

“Impact assessment

Within six months of the passing of this Act the Secretary of State must lay an impact assessment before each House of Parliament setting out the expected costs of its provisions for businesses, and governmental and nonprofit organisations.”

Pension Schemes Bill [HL]

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

24 February 2020
