

Pension Schemes Bill [HL]

FOURTH
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.

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.”

BARONESS NEVILLE-ROLFE
BARONESS ALTMANN
BARONESS JANKE

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.”

After Clause 128 - continued

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.
- (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”.

After Clause 128 - continued

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”

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,

After Clause 128 - continued

- (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.”

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.

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,
- (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.

After Clause 128 - continued

- (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 –

“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.

Schedule 11 - continued

- (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;
 - (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.

Schedule 11 - continued

- (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.”

BARONESS BOWLES OF BERKHAMSTED

101 Insert the following new Clause—

“Regulations

Regulations under this Act may not—

- (a) create a new criminal offence,
- (b) create a regulator,
- (c) create multi-employer collective money purchase schemes,
- (d) significantly restrict the powers of trustees, or
- (e) amend primary legislation.”

Pension Schemes Bill [HL]

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2 March 2020
