

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

Public Bill Committee

## TAXATION OF PENSIONS BILL

*Fourth Sitting*

*Thursday 20 November 2014*

*(Morning)*

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New clause considered.  
New schedule considered.  
CLAUSE 3 agreed to.  
Bill, as amended, to be reported.  
Written evidence reported to the House.

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**The Committee consisted of the following Members:**

*Chairs:* MR MIKE WEIR, † NADINE DORRIES

† Barwell, Gavin (*Lord Commissioner of Her Majesty's Treasury*)  
 Bridgen, Andrew (*North West Leicestershire*) (Con)  
 Dakin, Nic (*Scunthorpe*) (Lab)  
 † Djanogly, Mr Jonathan (*Huntingdon*) (Con)  
 † Evans, Chris (*Islwyn*) (Lab/Co-op)  
 † Freer, Mike (*Finchley and Golders Green*) (Con)  
 † Gauke, Mr David (*Financial Secretary to the Treasury*)  
 † Glass, Pat (*North West Durham*) (Lab)  
 † James, Margot (*Stourbridge*) (Con)  
 † Jamieson, Cathy (*Kilmarnock and Loudoun*) (Lab/Co-op)

† Mills, Nigel (*Amber Valley*) (Con)  
 † Nash, Pamela (*Airdrie and Shotts*) (Lab)  
 † Opperman, Guy (*Hexham*) (Con)  
 † Pearce, Teresa (*Erith and Thamesmead*) (Lab)  
 † Robinson, Mr Geoffrey (*Coventry North West*) (Lab)  
 Shannon, Jim (*Strangford*) (DUP)  
 † Smith, Henry (*Crawley*) (Con)  
 † Stephenson, Andrew (*Pendle*) (Con)  
 † Swales, Ian (*Redcar*) (LD)

David Slater, Marek Kubala, *Committee Clerks*

† **attended the Committee**

## Public Bill Committee

Thursday 20 November 2014

[NADINE DORRIES *in the Chair*]

### Taxation of Pensions Bill

#### New Clause 3

##### PENSION FLEXIBILITY: TREASURY REVIEW

(1) The Chancellor of the Exchequer shall, within one year of this Act receiving Royal Assent, publish and lay before the House of Commons a comprehensive review of the impact of the changes made by this Act to the Finance Act 2004 and the Income Tax (Earnings and Pensions) Act 2003.

(2) The information published under subsection (1) must include—

- (a) the distributional impact, by income decile of the population, of changes made by this Act to the Finance Act 2004 and Income Tax (Earnings and Pensions) Act 2003;
- (b) a behavioural analysis;
- (c) an analysis of the impact of this Act on Exchequer revenues;
- (d) an analysis of the impact of this Act on the use of salary sacrifice arrangements; and
- (e) an analysis of the impact of this Act on the purchase of annuities.”—(*Cathy Jamieson.*)

*Brought up, read the First time, and Question proposed (18 November).* That the clause be read a Second time.

11.30 am

*Question again proposed.*

**The Financial Secretary to the Treasury (Mr David Gauke):** It is a great pleasure to welcome you back to the Chair, Ms Dorries. I thank hon. Members for Tuesday’s informed and interesting debate on the new clause. We covered a wide range of issues relating to the new clause that I will address in due course, but I would first like to set out why the Government believe it is unnecessary.

New clause 3 would require the Government, 12 months after the Act comes into force, to prepare a review to be published in Parliament that considers behavioural analysis and the impact of the Act on Exchequer revenues, on the use of salary sacrifice arrangements, and on the purchase of annuities.

The new clause is unnecessary for a number of reasons. First, it would require the Government to preview the distributional impact of the measures in 12 months’ time. As I set out when discussing new clause 2 on Tuesday, the measures in the Bill will not have a direct consequential impact on household incomes. Any effects will be driven by the choices individuals make about when to take their pension and in what form. Additionally, household income is not necessarily a reliable measure of pension wealth, especially in the years shortly before retirement. There would be some potential to misrepresent the impacts of the policy if we were to assess it only against the distribution of household income.

With regard to behavioural analysis, the issues I mentioned in relation to new clause 2 remain relevant. The Treasury believes that the publication of detailed behavioural analysis relating to tax measures has the potential to be counter-productive, as it can itself alter behaviour. The tax information and impact note published at Budget already commits the Government to keep the policy under review through the monitoring of information collected on tax returns and tax records.

**Mr Geoffrey Robinson** (Coventry North West) (Lab): Surely the Minister accepts that the impact of the Bill on pension behaviour is vital, because that is what will determine whether or not it is a success. It would therefore potentially play a helpful role in the ongoing assessment of how the Bill affects people’s behaviour in relation to their pension. Why is the Minister saying that it could be counter-productive? That does not follow.

**Mr Gauke:** The point I was making was perhaps slightly narrower than the one the hon. Gentleman perceived. The publication of detailed behavioural analysis relating to tax measures has the potential to be counter-productive, because it can itself alter behaviour. For example, if we put out analysis suggesting a particular course of action that people could take to minimise their tax bill, that would draw attention to that particular behaviour. It clearly would not be responsible to do that. That is a general and long-standing approach that the Treasury has taken with regard to detailed behavioural analysis. That is not to say that we do not take account of behavioural effects when calculating the costings that we have published—of course we do. The analysis is based on those behavioural effects, but, as I said, if we start to break down that analysis into every small detail, that can be counter-productive.

**Cathy Jamieson** (Kilmarnock and Loudoun) (Lab/Co-op): To follow up on my hon. Friend’s point, as I understand it the Minister said that detailed behavioural analysis would be counter-productive because of its potential to alter behaviour. I do not think that any of us would want the publication of material to encourage or allow people to go down a line that meant that they avoided paying the tax that was due—far from it. However, as we have said repeatedly during debates on the Bill, some behaviours might lead to unintended consequences. Will the Minister at least accept that point and reconsider his position?

**Mr Gauke:** Any impact on the Exchequer in terms of behavioural responses will be reflected in forecasts at future fiscal events, and through the data that Her Majesty’s Revenue and Customs regularly publishes on tax receipts. As I am sure the Committee is aware, tax policy is kept under continuous review by the Government.

With regard to the point about salary sacrifice, as the Government response to the consultation stated, and as I mentioned on Tuesday, the Government will closely monitor behaviour under the new system.

**Mr Robinson:** The Minister is going at a great rate of knots through his various points. He is clearly anxious to make progress—I am sure we shall—but the new

clause is important, and we want to ensure that the Bill works in the way in which it is intended. We could take the two together: the impact on the Exchequer revenues and the behavioural aspect. Perhaps the impact on the Exchequer revenues will be as minimal as he has led us to believe—we do not know—but as for the impact on behaviour, we are trying to foresee a situation in which the measure might work badly for whatever reason. There is scope for that because the measure is being rushed through. Will he reconsider? The new clause is not meant to be redundant. It would help to ensure that the thing will work properly and put Opposition minds at rest.

**Mr Gauke:** As I said, in terms of the behavioural effects and the impacts on tax revenues, the information will be available in future in the normal way. We plan to continue working with interested parties to ensure that the system remains fair and proportionate. There are continuing discussions between the Government and industry. The discussions will provide the basis for continuous consideration of the way in which the system is working. If the Government see evidence that the new system is being abused, we will not hesitate to address it.

New clause 3 would also require that any published review include any impact the measures contained in the Bill have on the sale of annuities. I believe that would be inappropriate. The changes made by the Bill are not about annuities, or about encouraging savers towards one particular product at the expense of another; they are about increasing choice and flexibility at the point of retirement. The Government have been very clear that they expect annuities will continue to be the right choice for many people at some point in their retirement, because of the security they provide. However, the point of the reforms is that the Government do not wish to dictate what financial products an individual should use during their retirement.

Data on annuity sales will continue to be available through other channels, such as the data published by the Association of British Insurers and publications by individual firms. For the Government to publish further data would be an unnecessary duplication of information in the public domain.

**Cathy Jamieson:** The Minister is being generous in giving way. Does he understand that the concerns raised in relation to annuities involve ensuring that options are available for people in line with the principles of freedom and choice that the Government are trying to put across? They also involve ensuring that, for example, people on relatively low incomes still have that range of choice. Does he accept that there is a difficulty because we have two different Bills trying to deal with different parts of what the Government are trying to achieve? Although not all the issues relate to the Exchequer, there are issues in the Pension Schemes Bill that directly impact on this Bill, and vice versa.

**Mr Gauke:** It is the case that there are two Bills. I cannot possibly deny that, but the co-operation between the Treasury and the Department for Work and Pensions in implementing the Bills has been extremely strong and effective. They address different aspects. I am pleased with the progress that has been made on the Pension Schemes Bill, and I hope we can make further progress on the Taxation of Pensions Bill this morning.

Many of the points raised on Tuesday relate to the guidance guarantee and the form it will take. Returning to the hon. Lady's earlier remarks, her concerns fall directly within the scope of the Pension Schemes Bill. I would expect her to be grateful for the opportunity to have two Bills in which to address her points.

The Government are clear that meeting consumer needs will be at the heart of the guidance service design. We are considering how best to ensure that consumers can access guidance in the way that they want and that suits their needs. I can reassure hon. Members that the guidance will be tailored to the individual who receives it. It will cover a range of relevant topics and the options available. That will be reinforced by the Financial Conduct Authority standards for the guidance.

Hon. Members also raised the readiness of the guidance service, in particular whether its delivery partners would be able to cope with likely demand. The Government are committed to ensuring that the guidance service is in place in good time for April 2015. To help us do that, we have brought together a range of delivery partners with long-standing experience of offering similar services to consumers. By working with those well established and respected organisations, the Pensions Advisory Service and Citizens Advice, the Government will build on existing capacity and expertise in order to get the service up and running in time for the reforms.

A question was raised on Tuesday about whether people will know whether guidance is regulated. The Government recognise the need to make the nature of the service clear to consumers. Guidance is not designed to replicate professional financial advice. It will provide tailored information on the options available to consumers, but will not recommend specific products or providers. The service will make clear what it will provide and what it will not do, and will make sure that individuals know where they need to go next. For some, that could be a financial adviser.

The hon. Member for Scunthorpe—I regret he is not here this morning—also raised the possibility that there could be low take-up of the guidance guarantee and referred to a pilot that Legal & General had conducted for which take-up was low. Hon. Members may wish to note that that was independent of the Government's guidance service and took place before delivery partners were announced. It is also important to note that the pilot was available only over the telephone within certain opening hours. However, that example does provide a useful lesson on the importance of engaging people.

Assessment of demand is a fundamental part of the guidance service design and the Government are working to ensure that consumers are aware of their right to guidance. We also continue to work with industry to ensure that people are signposted to the service by their provider.

The hon. Member for Erith and Thamesmead raised the need for a second line of defence should consumers not engage with the guidance service. It is important to recognise that these reforms are designed to give consumers the freedom to choose how they use their pension savings in retirement.

The FCA has made clear that firms should not do anything to dissuade customers from taking up the guidance, and those who choose not to do so will receive information about their options as they do

[Mr Gauke]

currently, including a clear message that they can shop around on the open market. The Government will continue to work with the regulators to ensure that providers give the right information to consumers. If existing requirements and options need to make that clearer, we are committed to making that happen as quickly as possible.

The last point I would like to address is the possibility of scams, fraud and mis-selling when the new system comes into place. The Government are taking a number of actions to prevent that type of behaviour next year. First, the guidance will promote consumer awareness of scams and give practical tips, such as how to check whether a firm is regulated on the FCA's register.

Secondly, the FCA has a clear objective to protect consumers and an extensive and highly effective toolkit to ensure that they are protected. For example, with regard to mis-selling, the FCA has the power to remove a firm's permission to trade, and to ban the directors of a firm from setting up business in the industry again. It also has the ability to issue unlimited fines. The FCA has recently launched a new high-profile consumer awareness campaign on investment scams, known as "ScamSmart".

Thirdly, to ensure that no one tries to pass themselves off as a guidance provider, the Government have introduced an amendment to the Pension Schemes Bill to make that a criminal offence.

**Chris Evans** (Islwyn) (Lab/Co-op): May I ask the Minister a direct question from my own experience? Many reputable companies were very good in giving advice but they had some rogue advisers who were allowed to move from company to company before their bad advice was discovered by the company, and then the company was punished. Is there any way to track individual advisers who may give that type of information and yet move on to another company before they are found out?

**Mr Gauke:** The hon. Gentleman referred to his previous career, and if I recall correctly from my distant past, the FCA has an approved persons regime, which includes investment advisers. If an investment adviser is found to have breached the FCA's standards, they may no longer be considered a fit and proper person. If my memory of how the regulatory system works serves me well, this area is regulated at the level of both the firm and the individual adviser.

11.45 am

**Ian Swales** (Redcar) (LD): The witness from the Financial Services Consumer Panel said that products are already emerging that are

"even more complex than annuities."—[*Official Report, Taxation of Pensions Public Bill Committee*, 11 November 2014; c. 12, Q15.]

She said that she could not see how those products would be sold without regulated financial advice as opposed to guidance, because of their complexity. One can well imagine products that wrap up equity-related investments, care insurance and so on. One can imagine major complexity. I understand the Minister talking about regulation of companies, but is he looking at products themselves, particularly from the point of

view of tax avoidance? Are there any types of product about which HMRC is saying, "Actually, we wouldn't want to see that kind of product on the market"?

**Mr Gauke:** There are two aspects of this. One is regulatory and one is tax-related. In terms of the regulatory regime, the FCA will want to monitor this area carefully and ensure that products are appropriate and not mis-sold. In terms of tax, I come back to what I said earlier: the Government and HMRC will want to keep these matters under review.

It is of course difficult to make predictions about behavioural changes. This is about giving people more choice, and the particular impact will depend upon the choices made. On concerns about tax avoidance, we have been clear; I have made the point repeatedly over the course of these proceedings that we would want to keep that under review. To summarise my response, the FCA has the ability to intervene in relation to products, and HMRC will monitor the responses in terms of exploitation of the new tax regime, to ensure that there is not a significant cost to the Exchequer.

**Ian Swales:** If, for example, a product appeared on the loan market for people under 55 that was legally tied to repayment with pension savings at the age of 55 and consequent tax savings, should such a product be allowed?

**Mr Gauke:** To be honest, I am not sure that it is helpful for me to give a running commentary on particular types of briefly described product, or to take a view on what is appropriate. It is better to set out the principle, which is that the FCA has product intervention powers and will want to ensure that the regime works properly. HMRC will also keep these matters under review. This is about giving people greater freedom and choice. It is not about creating opportunities to reduce tax bills that are contrary to the spirit of the reforms. We will continue to monitor that closely.

Before I conclude, I will make one additional point. I fully understand the reasons for the Opposition tabling both their new clauses, but I attended a conference yesterday with the industry where some concern was expressed that it indicated that the Opposition were not keen on this additional flexibility or on providing more choice, and tabling the amendments was a precursor, in the event of a future Labour Government, to them removing the choice and flexibility that this Government have given. I reassured the conference that this was merely about the level of scrutiny that one would expect from a diligent Opposition, and that they should not read into it any indication that the Labour party was backsliding in its support of the measures or lukewarm, or that it was preparing the ground to remove the flexibilities in the future. There was certainly concern that if there was that perception, people might act hastily to take advantage of the flexibility and, subsequently, repent at leisure.

I hope I was doing the right thing by providing reassurance to the industry as to the intentions of the Labour party. I suspect that Opposition Members will, none the less, press ahead to divide the Committee on the new clause, but I hope that the hon. Member for Kilmarnock and Loudoun will reassure us that it is not an indication that the Labour party has plans, were it to

be in power next year, to remove the flexibilities that we are putting in place through the Bill. I hope that the Committee will reject the new clause.

**Mr Robinson:** While it would not be at all appropriate of me to give the assurance that the Minister is looking for, speaking personally I can certainly give him that assurance, and I am sure that I can anticipate my hon. Friend the Member for Kilmarnock and Loudoun, speaking officially as shadow Minister, doing the same. An encouraging thing about the conference is that it has clearly concluded that Labour is going to win the next election and was concerned about what we will do, which, I am sure, is encouraging to everybody on the Committee—

**The Chair:** Mr Robinson, please keep your remarks on the content of the new clause.

**Mr Robinson:** The point was raised by the Minister. With great respect to him, he is clearly very worried, and I am giving him the very reassurance he sought from us. I cannot see how that is out of order and, indeed, I am reassured that he should seek it. More than that, I am delighted to give him that assurance.

We have welcomed the provisions. From the beginning, we said that the questions and concerns that we would raise would in no way indicate doubts about our general support for the flexibility and freedoms given in the Bill; but the way to hell can often be paved with good intentions, and we have to take the only too recent history of the industry into consideration. Part of that, as the Minister mentioned, are the scams. The legislation has been called a scammer's charter. I think that is grossly exaggerated, but it has been rushed through. He admitted that it was done in some haste. There are two Bills going and a multiplicity of governmental and non-governmental agencies are involved in their administration. We are right to dwell on that, which is why I come back to new clause 3.

Perhaps the Minister does not want to give us all the individual reviews contained in the proposed new clause. The only argument that he put forward that made any sense at all was that it was a long-standing Treasury tradition or custom not to provide that sort of information. Usually, of course, the more long-standing the Treasury custom, the worse it is. The Treasury generally does not want to give any information about anything unless it absolutely has to. That is why we tabled the new clause.

If the Minister does not want to spell out the individual items, would he take the point on board? My hon. Friend the Member for Kilmarnock and Loudoun has said that a vote will be called on this proposed new clause as we did on the previous one. I am more concerned about this one as it would be the review clause. Nobody is looking to the Minister for a running commentary on the affairs. We want a sensible, systematic review to show that the Bill is achieving the purpose for which it was created, that it is not being misused and is not having a dreadful impact on the Exchequer revenues, tax revenues—if the Minister is right, it probably will not—on the impact of its provision of funds for infrastructure.

**Guy Opperman (Hexham) (Con):** Will the hon. Gentleman explain why the good offices of the Treasury Committee or the Public Accounts Committee could not do the exact job that he seeks to pursue now?

**Mr Robinson:** It is not for me to say what they might decide to do. Perhaps they will; I do not know. That is not the point and, in fact, they may will have to. I am sure if there is a scam, the Treasury Committee will be on it overnight, but we do not want to get to that point. That is the point of having a review.

I am grateful to the hon. Gentleman for making that point because it enables me to emphasise why we want an annual review. Let the Minister give a general undertaking, if he does not want to give an individual one, to report to Parliament annually or biannually on the workings of the legislation. That would be sufficient. In Opposition time and under the new—or not so new—Backbench Business Committee arrangements, we can find time to arrange opportunities to do that. I am sure the Minister has that in mind, but when one asks for a review from the Government, it puts the onus on them and ensures that they do not take their eye of the ball. That is what happens when things start going wrong. People do not realise until too late and then we have, as the hon. Gentleman mentioned, a Treasury inquiry.

Those are the reasons why we feel the Government are being needlessly negative about the new clause. It would be in their interests—indeed, everybody's—to agree to it. The Minister talks about a general consumer awareness campaign and all the rest, but the fact is that the Bill is going through—I hate to say it—largely unnoticed outside the pensions industry. I was with some people the other day who lived in St Albans, which is not a Labour seat by any stretch of the imagination. The Bill had come to their attention—this comes back to the annuities business—very indirectly. It is quite interesting that they had not heard about it through the consumer awareness campaign. It had nothing to do with that, or with the 3% who sought the advice of the gentlemen from Legal & General. The worrying thing to us was not the Government's intentions, which we applaud, but some of the evidence we had from pension providers. They were clearly quite concerned about the fact that they were not getting through to their customers.

The people I was with had heard about the Bill indirectly because the prospect of people investing in the buy-to-let market was moving distinctly up in St Albans. That is one of the alternatives that has been widely reported in the narrow columns of the financial press. It has been advertised as a good source and a good haven for the funds released under the Bill, so students attending the good colleges and university in the area were no longer able to afford the rents, because people moving into the funds were increasingly concerned with buy to rent, and the prices were going up. That was their only awareness of the impact of the Bill.

I put it back to the Minister—this is no *cri de coeur* or great impassioned plea—that this is not a massive thing. It would be very little for the Government to concede an annual review and tell us how the legislation is getting on. That would be in everyone's interest.

**Cathy Jamieson:** I thank my hon. Friends for Scunthorpe, for Coventry North West and for Erith and Thamesmead for their contributions. They all spoke with great knowledge, having looked into all of the matters covered by the Bill, and made the case for their own constituents and people right across the UK to ensure we get the Bill as fit and proper as possible.

[Cathy Jamieson]

I thank the Minister for his response; his polite and dulcet tones always lull us into a false sense of security. Perhaps, at one point, he is going to give in and say yes. He must be the Minister who says no in the nicest possible way. Throughout the course of my exchanges with him, that has certainly been the case. I am disappointed, of course, that he has once again chosen to disagree with the new clause.

I wanted also to pick up the point that the Minister raised about his discussions with the industry. When I came in here this morning, the last thing I expected was that the Minister would be standing up and making my case for me to the industry on where the Opposition stand. We have said on numerous occasions, but I will repeat it again, that the scrutiny of this Bill and, indeed, of the Pension Schemes Bill, is not about the straightforward principle of allowing people freedom and choice. It is correct that we exercise due diligence and proper scrutiny to ensure that the Bill is fit for purpose and that we have properly considered all of the issues. It would not be correct of me to stray on to what might or might not be policy on a range of matters, but we have been clear about our approach to both Bills.

12 noon

The Minister said he was at a conference and had conversations with the industry, but I hope he accepts that many of the points that we have raised during consideration of the Bill came from the industry, which supplied us with its concerns, questions and issues. In that context, I will raise something that I did not intend to: the supplementary written evidence submitted by the National Association of Pension Funds, which runs to a considerable number of pages—I will not read them all out—and which referred to the “101 Known Unknowns”. That was only a part of the responses received, containing a range of questions that it is right to consider in debate.

I will say more about a couple of specifics that we have already raised in debate, and explain why I want to press the new clause to a vote. The intention is not to frighten the industry’s horses or give any signal, other than that we think it is right and proper for the Bill to be reviewed, and for further information to be obtained on what will happen when it is implemented.

The Minister will say that everything is under continuous review, and he knows as well as I do what that means. People will be beaver away in the background on certain things, keeping an eye on them and looking at what is going on; but unless there is a focus, catalyst or trigger to bring them back into the public domain that will not necessarily happen. I do not want a scam or scandal to be the reason for bringing those things back into the public domain, so I am trying to be helpful. I am trying to work with the grain of what the Minister is doing, to ensure that his officials can continue to work on the matter, and to secure a time scale for bringing back information. That is important for monitoring.

The Minister talked about the two Bills and the good co-operation between the Treasury and the DWP, but in our debates I have raised several points relevant to that on which further work is needed, in relation to the future impact. That is another reason why a review would be important. The Minister referred to the work being done on the guidance guarantee, and that is

important. My hon. Friend the Member for Cumbernauld, Kilsyth and Kirkintilloch East (Gregg McClymont) has been doing a fantastic job on scrutiny of the Pension Schemes Bill, bringing forward questions and issues for debate. That is in addition to his membership of the Smith commission on devolution, which is not a matter for discussion here—but he has none the less done a diligent job there.

In response to the questions of my hon. Friends about scams and the potential for fraud or mis-selling, the Minister mentioned the Scam Smart tool now available through the Financial Conduct Authority, which allows people to go online if they have concerns and to check whether companies are legitimate. I was grateful to the FCA for bringing that information to Parliament, and allowing hon. Members to go and see the work being done. However, we need to continue to make consumers in the wider world aware of such things.

As I have often said, some people that the Bill affects will be making a once in a lifetime decision. They may not be au fait with all the information or options. That is why public information is important, and why the guidance guarantee must be got right. My hon. Friend the Member for Islwyn raised a question about so-called rogue advisers who might move from firm to firm or company to company, or set up in different ways, to try to avoid the regulation. That is something that we have to keep an eye on.

During Tuesday’s debate, I summarised my concerns about the additional leeway for tax avoidance that may be created by the salary sacrifice arrangements in the Bill, and the Minister tried to reassure us. I am sure he does not want me to return to those points, so I will not do so in huge detail, but I want to refer to the assumptions that have been made. It is important that we put these issues on the record. I am trying to be helpful by flagging up our concerns, so if something goes wrong or is uncovered we can at least say that we did our job.

The Minister disputed Mr Greenwood’s evidence and outlined his criticisms in great detail. He said that Mr Greenwood’s figures required

“everyone between the age of 55 and state pension age to be employed and taking advantage of the option to sacrifice salary”.—[*Official Report, Taxation of Pensions Public Bill Committee*, 18 November 2014; c. 78.]

However, Mr Greenwood gave a range of possible estimates, not all of which assume that people are involved in that kind of behaviour. For example, he argued that if even 10% take advantage of the arrangement, there is a potential £2 billion loss, so if 5% take advantage of it, there is a potential £1 billion loss. The Minister tried to counter those figures, but those are the things that people have been saying that we should look at in more detail. Those figures and concerns are in the public domain, so it is reasonable for us to ask not only for more information from the Treasury, but for the Treasury to keep an eye on the measure and proactively monitor it, rather than simply wait for something to happen. It is reasonable to do that in the context of the Government’s consultation document—the much-quoted “Freedom and choice in pensions”—which states that the new money purchase annual allowance rules will cover 98% of pension savers over the age of 55.

There are still some concerns that the changes in the Bill could cause people to change their behaviour. Even if the Minister puts information in the public domain to

highlight that, there will be people who will be looking at this matter. It is a change, so it is bound to change behaviour. We must look at what that will mean in practice. We must also look at whether the changes in the Bill will cause people to change their behaviour in the accumulation phase—the point at which they are saving into the schemes—as well as the access phase.

How the two Bills will come together has not been fully scrutinised or assessed, and that is the kind of information we are looking for. We are concerned that this Bill will continue to allow people to divert sums through salary sacrifice into their pensions and take as much as they wish from their pensions in the following year. No doubt, we will return to that issue to ensure that every possible loophole is tightened.

We feel that the new clause is important because of the reporting requirements, which I spoke about earlier. The industry is concerned—the industry brought these points to us, which is why I am keen to ensure they get a good hearing and are taken forward—that the requirements are too onerous and are likely to place a disproportionate burden of responsibility on pension scheme members. We have looked at the schedule that amends the registered pension schemes. In the interests of clarity, it is worth noting that new regulation 14ZA requires a scheme administrator to provide a statement to a scheme member within 31 days when it appears that they have first flexibly accessed their pension rights. It also sets out the relevant events that require the scheme administrator to provide the statement and the information that should be included in that statement.

New regulation 14ZB, in part 6 of the schedule, applies to individual members. It states that individuals who receive a statement

“must before the end of the 31 days beginning with the date of receipt—

- (a) pass on a copy of the statement, or
- (b) otherwise give notice of—
  - (i) receipt of the statement, and
  - (ii) the date of the relevant event concerned,

to the scheme administrator of each other registered pension scheme of which the individual is a member at any time in the period beginning with the date of the relevant event and ending with the date of receipt of the statement.”

I have read out all the detail because I hope that the Minister will clarify something that I have asked about already. Does that mean that members must contact all registered pension schemes, including those into which they are no longer paying? That is important because if individuals fail to comply with the regulations, they could be liable for fines, as the Minister has set out.

New clause 3 would allow the Minister to continue to review the information to determine whether any change was required. In their written evidence, Ros Altman, whose evidence I have previously referred to, and the Association of Tax Technicians set out their view that if a scheme has 31 days to notify a member, it seems unfair that the member has 31 days to notify what could be multiple pension schemes. Is that the correct time scale? The written evidence from the ATT states that 31 days is

“a very short deadline for the member to then have to contact all of their other schemes”.

It believes that

“the deadline for the member to do this ought to be extended to, say, 45 or 60 days, to recognise that there may be a number of letters or telephone calls that the member will need to undertake.”

Given the practical issues surrounding the Bill, it is our responsibility to probe them in detail.

The ATT also says that the speed with which the new requirements are being introduced could catch many people unawares. We have heard concerns that the Bill is being rushed through, and while everyone is trying their best to make it work in practice, there is always the potential for unintended consequences. The ATT recommends that the Minister should consider phasing in the charging of penalties, because the whole idea of flexibility means that people will change their behaviour, yet it might take time for people to understand the situation.

We would have liked more opportunities to consider how the changes will work in practice and how the new regulations will ensure that all schemes communicate with each other. For example, if an individual contributes £2,000 to one pension scheme and £9,000 to another, that individual may technically have breached the money purchase annual allowance rules. However, both those sums would be below the reporting level, so neither scheme would necessarily be aware that the rules had been breached. Again, I am going into some detail because these are the concerns that the industry has expressed. Even after the Bill is passed, the Minister should be on top of all the concerns that have been set out and carry out ongoing proactive monitoring.

**Ian Swales:** There is incredible complexity when there is more than one pension contribution, but does the hon. Lady nevertheless accept that the situation she describes already applies? There is no change, as if people contribute to more than one pension scheme and breach their annual allowance, that is picked up only when they do their tax returns.

**Cathy Jamieson:** The hon. Gentleman makes a good point, but the Bill will create situations in which people who breach those rules could be liable for financial penalties. It is important that we keep on top of that and that people are not caught inadvertently, especially in the early stages. We are implementing the measures very quickly. People say they are doing their best to make them work, but none the less there could be problems.

**Ian Swales:** I am sure that the Minister is listening to that point. The hon. Lady knows it is difficult to know the annual allowance figure for people in employment until the end of the year. Those of us who look at our parliamentary pension statements can sometimes be surprised by the annual allowance figure.

**Cathy Jamieson:** Again, the hon. Gentleman makes an interesting point. I am smiling slightly, because if the Bill has done nothing else for Committee members, I suspect that it will have caused everyone to look at their own pension situation, notwithstanding the fact that our scheme is, of course, very different from others. I urge the Minister to take on board the comments that have been made, because I am sure that the industry will have been making the same points to the Minister that it has made to the Opposition.

[Cathy Jamieson]

I have given our concerns a fair airing, picking up points around salary sacrifice and reporting, as well as general issues to do with the Bill's rapid progress and concerns around the guidance and the fit with the Pension Schemes Bill. There are concerns about the impact on people receiving social care and means-tested benefits. There is a wish to ensure that everyone is able to take advantage of the freedom and choice, to use the Government's words, that the Bill will introduce, and also to ensure that people do not make wrong decisions at an early stage that they are then unable to change.

It is fair and sensible for us to ask that the new clause is included in the Bill because it would ensure that the Government did not simply monitor quietly in the background, waiting for something to go wrong, but proactively looked at all these areas and then brought further information to Parliament so that we could consider how best to do things in the future and remedy any unintended consequences or loopholes. On that basis, I wish to press the new clause to a Division.

*Question put, That the clause be read a Second time.*

*The Committee divided: Ayes 6, Noes 10.*

#### Division No. 2]

#### AYES

Evans, Chris	Nash, Pamela
Glass, Pat	Pearce, Teresa
Jamieson, Cathy	Robinson, Mr Geoffrey

#### NOES

Barwell, Gavin	Mills, Nigel
Djanogly, Mr Jonathan	Opperman, Guy
Freer, Mike	Smith, Henry
Gauke, Mr David	Stephenson, Andrew
James, Margot	Swales, Ian

*Question accordingly negatived.*

### New Schedule 1

#### DEATH OF PENSION SCHEME MEMBER

#### PART 1

##### DEATH BENEFITS: NOMINEES AND SUCCESSORS

*Drawdown benefits for nominees and successors of deceased scheme members*

1 FA 2004 is amended as follows.

2 (1) Section 167 (the pension death benefit rules) is amended as follows.

(2) In pension death benefit rule 1 (pension death benefit may be paid only to dependant of deceased member) after "dependant" insert " , or nominee or successor,".

(3) After pension death benefit rule 3 (pension death benefits which may be paid under a money purchase arrangement to a dependant) insert—

"Pension death benefit rule 3A

No payment of pension death benefit, other than nominees' drawdown pension in respect of a money purchase arrangement, may be made to a nominee of the member.

Pension death benefit rule 3B

No payment of pension death benefit, other than successors' drawdown pension in respect of a money purchase arrangement, may be made to a successor of the member."

(4) After subsection (1) insert—

"(1A) For the purposes of this Part, a person becomes entitled to dependants' income withdrawal, nominees' income withdrawal or successors' income withdrawal under a registered pension scheme whenever sums or assets held for the purposes of an arrangement under the pension scheme are designated as available for the payment of (as the case may be) dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension."

(5) In subsection (2) (meaning of "pension death benefit") after "see section 165)" insert " , or a pension payable in respect of the member on the subsequent death of a dependant, nominee or successor of the member".

3 (1) In Part 2 of Schedule 28 (interpretation of the pension death benefit rules) at the end insert—

*"Meaning of "nominee"*

27A (1) "Nominee of the member" means an individual—

- (a) nominated by the member, or
- (b) nominated by the scheme administrator,

who is not a dependant of the member, but see sub-paragraph (2).

(2) In relation to any particular benefits under an arrangement, no individual nominated by the scheme administrator counts as a nominee of the member at any time when there is—

- (a) a dependant of the member, or
- (b) an individual, or charity, nominated by the member in relation to the benefits.

(3) The reference in sub-paragraph (2)(b) to being nominated in relation to particular benefits under an arrangement includes—

- (a) a reference to being nominated in relation to the scheme,
- (b) a reference to being nominated in relation to arrangements that include the arrangement,
- (c) a reference to being nominated in relation to the arrangement, and
- (d) a reference to being nominated in relation to benefits that include the particular benefits.

*Nominees' drawdown pension*

27B "Nominees' drawdown pension" means—

- (a) a nominees' short-term annuity, or
- (b) nominees' income withdrawal.

*Nominees' short-term annuity*

27C (1) For the purposes of this Part an annuity payable to a nominee is a nominees' short-term annuity if—

- (a) it is purchased by the application of sums or assets representing the whole or any part of the nominee's flexi-access drawdown fund in respect of an arrangement,
- (b) it is payable by an insurance company,
- (c) the nominee becomes entitled to it on or after 6 April 2015, and
- (d) it is payable for a term which does not exceed five years and ends before the nominee dies.

(2) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision in relation to cases in which a nominees' short-term annuity payable to a person ("the original nominees' short-term annuity") ceases to be payable and in consequence of that—

- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied—
  - (i) towards the provision of another nominees' short-term annuity (a "new nominees' short-term annuity") by the other insurance company, or
  - (ii) otherwise, or

(b) sums or assets are transferred to the relevant registered pension scheme.

(3) The regulations may provide that—

- (a) in a case where a new nominees' short-term annuity becomes payable, the new nominees' short-term annuity is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original nominees' short-term annuity, and
- (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the sums, and the market value of the assets, transferred.

(4) For the purposes of sub-paragraphs (2) and (3) a registered pension scheme is the relevant registered pension scheme if the original nominees' short-term annuity was acquired using sums or assets held for the purposes of the pension scheme.

*Nominees' income withdrawal*

27D "Nominees' income withdrawal" means an amount (other than an annuity) which the nominee is entitled to be paid from the nominee's flexi-access drawdown fund in respect of an arrangement.

*Nominee's flexi-access drawdown fund*

27E (1) For the purposes of this Part a nominee's flexi-access drawdown fund in respect of an arrangement consists of such of the sums or assets held for the purposes of the arrangement as are newly-designated nominee funds.

(2) For the purposes of this Part sums or assets held for the purposes of an arrangement are newly-designated nominee funds if—

- (a) they—
  - (i) have, at any time on or after 6 April 2015, been designated under the arrangement as available for the payment of nominees' drawdown pension, and
  - (ii) were, immediately before being so designated, unused drawdown funds or unused uncrystallised funds, or
- (b) they arise, or (directly or indirectly) derive, from newly-designated nominee funds under paragraph (a) or from sums or assets which so arise or derive.

(3) Sums or assets held for the purposes of an arrangement after the member's death are unused drawdown funds if—

- (a) immediately before the member's death, they were held for the purposes of the arrangement and represented (whether alone or with other sums or assets) the member's flexi-access drawdown fund, or drawdown pension fund, in respect of the arrangement, or
- (b) they arise, or (directly or indirectly) derive, from unused drawdown funds under paragraph (a) or from sums or assets which so arise or derive.

(4) In the case of a cash balance arrangement, sums or assets held for the purposes of the arrangement after the member's death are unused uncrystallised funds if—

- (a) they represent the whole or any part of the sum that would have been available immediately before the member's death for the provision of benefits to or in respect of the member if entitlement had arisen immediately before the member's death to all benefits under the arrangement to which entitlement had not previously arisen, and
- (b) since the member's death they have not been designated as available for the payment of dependants' drawdown pension, not been designated as available for the payment of nominees' drawdown pension, not been applied towards the provision of a dependants' annuity and not been applied towards the provision of a dependants' scheme pension.

(5) In the case of any other money purchase arrangement, sums or assets held for the purposes of the arrangement after the member's death are unused uncrystallised funds if—

(a) immediately before the member's death they were held for the purposes of the arrangement and at that time—

- (i) were not member-designated funds,
- (ii) were not newly-designated funds,
- (iii) had not been applied towards the provision of a scheme pension, and
- (iv) had not been applied towards the provision of a dependants' scheme pension, or

(b) they arise, or (directly or indirectly) derive, from unused uncrystallised funds under paragraph (a) or from sums or assets which so arise or derive,

and since the member's death they have not been designated as available for the payment of dependants' drawdown pension, not been designated as available for the payment of nominees' drawdown pension, not been applied toward the provision of a dependants' annuity and not been applied toward the provision of a dependants' scheme pension.

*Meaning of "successor"*

27F (1) "Successor of the member" means an individual—

- (a) nominated by a dependant of the member,
- (b) nominated by a nominee of the member,
- (c) nominated by a successor of the member, or
- (d) nominated by the scheme administrator,

but see sub-paragraph (2).

(2) In relation to any particular benefits under an arrangement relating to a dependant, nominee or successor of the member ("the beneficiary") in that capacity, no individual nominated by the scheme administrator counts as a successor of the member at any time after the beneficiary's death when there is an individual, or charity, nominated by the beneficiary in relation to the benefits.

(3) A reference in sub-paragraph (2) to being nominated in relation to particular benefits under an arrangement includes—

- (a) a reference to being nominated in relation to the scheme,
- (b) a reference to being nominated in relation to arrangements that include the arrangement,
- (c) a reference to being nominated in relation to the arrangement, and
- (d) a reference to being nominated in relation to benefits that include the particular benefits.

(4) Where a successor of the member is an individual who is also a dependant of the member, the individual in the capacity of a successor of the member is to be treated as not also being a dependant of the member.

*Successors' drawdown pension*

27G "Successors' drawdown pension" means—

- (a) a successors' short-term annuity, or
- (b) successors' income withdrawal.

*Successors' short-term annuity*

27H (1) For the purposes of this Part an annuity payable to a successor is a successors' short-term annuity if—

- (a) it is purchased by the application of sums or assets representing the whole or any part of the successor's flexi-access drawdown fund in respect of an arrangement,
- (b) it is payable by an insurance company,
- (c) the successor becomes entitled to it on or after 6 April 2015, and
- (d) it is payable for a term which does not exceed five years and ends before the successor dies.

(2) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision in relation to cases in which a successors' short-term annuity payable to a person ("the original successors' short-term annuity") ceases to be payable and in consequence of that—

- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied—
- (i) towards the provision of another successors' short-term annuity (a "new successors' short-term annuity") by the other insurance company, or
- (ii) otherwise, or
- (b) sums or assets are transferred to the relevant registered pension scheme.
- (3) The regulations may provide that—
- (a) in a case where a new successors' short-term annuity becomes payable, the new successors' short-term annuity is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original successors' short-term annuity, and
- (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the sums, and the market value of the assets, transferred.

(4) For the purposes of sub-paragraphs (2) and (3) a registered pension scheme is the relevant registered pension scheme if the original successors' short-term annuity was acquired using sums or assets held for the purposes of the pension scheme.

#### *Successors' income withdrawal*

27J "Successors' income withdrawal" means an amount (other than an annuity) which the successor is entitled to be paid from the successor's flexi-access drawdown fund in respect of an arrangement.

#### *Successor's flexi-access drawdown fund*

27K (1) For the purposes of this Part a successor's flexi-access drawdown fund in respect of an arrangement consists of such of the sums or assets held for the purposes of the arrangement as are newly-designated successor funds.

(2) For the purposes of this Part sums or assets held for the purposes of an arrangement are newly-designated successor funds if—

- (a) they—
- (i) have, at any time on or after 6 April 2015, been designated under the arrangement as available for the payment of successors' drawdown pension, and
- (ii) were, immediately before being so designated, unused drawdown funds of the same deceased dependant, nominee or successor of the member, or
- (b) they arise, or (directly or indirectly) derive, from newly-designated successor funds under paragraph (a) or from sums or assets which so arise or derive.

(3) Sums or assets held for the purposes of an arrangement after the death of a dependant, nominee or successor ("the beneficiary") are unused drawdown funds of the beneficiary's if—

- (a) immediately before the beneficiary's death, they were held for the purposes of the arrangement and represented (whether alone or with other sums or assets) the beneficiary's—
- (i) dependant's flexi-access drawdown fund,
- (ii) dependant's drawdown pension fund,
- (iii) nominee's flexi-access drawdown fund, or
- (iv) successor's flexi-access drawdown fund,

in respect of the arrangement, or

- (b) they arise, or (directly or indirectly) derive, from unused drawdown funds of the beneficiary's under paragraph (a) or from sums or assets which so arise or derive."

(2) The provisions inserted by sub-paragraph (1) have effect even in relation to cases where the member concerned, or any dependant concerned, dies before 6 April 2015.

#### *Nominees and successors: further drawdown amendments*

4 In section 169(1D) (regulations about transfers of drawdown funds) after paragraph (aa) (which is inserted by this Act) insert "or

- (ab) a nominee's flexi-access drawdown fund, or
- (ac) a successor's flexi-access drawdown fund,".

5 In section 172(1)(a) (assignment of rights or benefits) after "dependant" insert ", nominee or successor".

6 In section 172A(1)(a) (surrender of rights or benefits) after "dependant" insert ", nominee or successor".

7 In section 172A(5) (exceptions to provisions on surrender: entitlement to benefits)—

- (a) in paragraph (b) after "dependant" insert ", or nominee,".

(b) after paragraph (b) insert—

"(ba) a surrender (or agreement to surrender) by a dependant, nominee or successor of the member ("the beneficiary") in return for the conferring, on a successor of the member, of an entitlement to benefits after the beneficiary's death,". and

(c) in paragraph (c) for "or dependant" substitute ", dependant, nominee or successor".

8 In section 172A(5A) (further provision on surrender exceptions)—

- (a) after "dependant", in the first place it occurs, insert ", or nominee,". and

(b) after "dependant", in the second place it occurs, insert "or nominee".

9 In section 172A after subsection (5A) insert—

"(5B) Subsection (5)(ba) applies only if the entitlement is held (or is to be held) by the successor under an arrangement under the pension scheme relating to the beneficiary or successor."

10 In section 172A(7) (exceptions to provisions on surrender: prospective entitlements)—

- (a) in the opening words after "dependant" insert "or nominee or successor", and

(b) in paragraph (a) after "dependant" insert ", or nominee or successor,".

11 In section 172B(2) (rights of a "relevant member")—

- (a) in paragraph (a) after "dependant" insert "or nominee or successor", and

(b) after paragraph (aa) insert—

"(ab) rights representing the nominee's flexi-access drawdown fund or successor's flexi-access drawdown fund in respect of an arrangement under the pension scheme,".

12 In section 172B(7A) (section does not apply to certain increases in rights) before "dependant's drawdown pension fund" (in both places) insert "nominee's flexi-access drawdown fund, successor's flexi-access drawdown fund,".

13 In section 182(3) (value of arrangement for purposes of borrowing limits) after paragraph (b) insert—

"(ba) the amount of such of the sums and the market value of such of the assets as represent nominees' flexi-access drawdown funds in respect of the arrangement (if any),

(bb) the amount of such of the sums and the market value of such of the assets as represent successors' flexi-access drawdown funds in respect of the arrangement (if any),".

14 In section 280(2) (index of defined expressions) at the appropriate places insert—

"dependant (of a member of a registered pension scheme)

paragraph 15 of Schedule 28"

"nominee (of a member of a registered pension scheme)

paragraph 27A of Schedule 28"

"nominees' drawdown pension

paragraph 27B of Schedule 28"

“nominee’s flexi-access drawdown fund	paragraph 27E of Schedule 28”
“nominees’ income withdrawal	paragraph 27D of Schedule 28”
“nominees’ short-term annuity	paragraph 27C of Schedule 28”
“successor (of a member of a registered pension scheme)	paragraph 27F of Schedule 28”
“successors’ drawdown pension	paragraph 27G of Schedule 28”
“successor’s flexi-access drawdown fund	paragraph 27K of Schedule 28”
“successors’ income withdrawal	paragraph 27J of Schedule 28”
“successors’ short-term annuity	paragraph 27H of Schedule 28”

*Nomination of charities by nominees and successors of deceased scheme members*

15 (1) Paragraph 18 of Schedule 29 (charity lump sum death benefit) is amended as follows.

(2) After sub-paragraph (2) insert—

“(2A) A lump sum death benefit is also a charity lump sum death benefit if—

- (a) it is paid on the death of an individual who is—
  - (i) a nominee of the member, or
  - (ii) a successor of the member,
- (b) there are no dependants of the member,
- (c) it is paid in respect of the individual’s nominee’s flexi-access drawdown fund or successor’s flexi-access drawdown fund at the date of the individual’s death in respect of an arrangement relating to the individual in the capacity of a nominee or successor of the member, and
- (d) it is paid to a charity nominated by the member or, if the member made no nomination, by the individual.”

(3) In sub-paragraph (3) (cases where lump sum exceeds the permitted maximum) for “or (2)” substitute “, (2) or (2A)”.

(4) In sub-paragraph (4) (meaning of “permitted maximum”) after “arrangement” insert “, or the nominee’s or successor’s flexi-access drawdown fund in respect of the arrangement.”.

*Related amendments in regulations*

16 (1) Regulation 12 of the Registered Pension Schemes (Transfer of Sums and Assets) Regulations 2006 (S.I. 2006/499) (drawdown funds—recognised transfers) is amended as follows.

(2) In the heading before “—recognised” insert “and nominee’s flexi-access drawdown fund and successor’s flexi-access drawdown fund”.

(3) In paragraph (1) (transfer recognised only if transferred items are only items held under arrangement to which transfer made) before “member’s drawdown pension fund” insert “nominee’s flexi-access drawdown fund, successor’s flexi-access drawdown fund.”.

(4) The amendments made by this paragraph—

- (a) come into force on 6 April 2015, and
- (b) are to be treated as having been made by the Commissioners for Her Majesty’s Revenue and Customs under the powers to make regulations conferred by section 169(1D) and (1E) of FA 2004 (as amended by this Schedule).

## PART 2

### LUMP SUM DEATH BENEFITS

*Special lump sum death benefits charge*

17 (1) Section 206 of FA 2004 (special lump sum death benefits charge) is amended as follows.

(2) After subsection (1) insert—

“(1ZA) In subsection (1) the reference to a member (and to the member’s death) are to be read—

(a) in relation to—

- (i) a drawdown pension fund lump sum death benefit under paragraph 17(2) of Schedule 29, or
- (ii) a flexi-access drawdown fund lump sum death benefit under paragraph 17A(2) of Schedule 29,

as a reference to a dependant (and to the dependant’s death),

(b) in relation to a flexi-access drawdown fund lump sum death benefit under paragraph 17A(2A) of Schedule 29, as a reference to a nominee (and to the nominee’s death), and

(c) in relation to a flexi-access drawdown fund lump sum death benefit under paragraph 17A(2B) of Schedule 29, as a reference to a successor (and to the successor’s death).”

(3) After subsection (1A) insert—

“(1B) The special lump sum death benefits charge also arises where—

(a) a lump sum death benefit is paid by a registered pension scheme in respect of a member of the scheme who had not reached the age of 75 at the date of the member’s death,

(b) the lump sum death benefit is—

- (i) a drawdown pension fund lump sum death benefit under paragraph 17(1) of Schedule 29,
- (ii) a flexi-access drawdown fund lump sum death benefit under paragraph 17A(1) of Schedule 29, or
- (iii) an uncrystallised funds lump sum death benefit, and

(c) the lump sum death benefit is not paid before the end of the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the member’s death and the day on which the scheme administrator could first reasonably have been expected to have known of it.

(1C) The special lump sum death benefits charge also arises where—

(a) a lump sum death benefit is paid by a registered pension scheme on the death of a dependant, nominee or successor of a deceased member of the scheme,

(b) the dependant, nominee or successor (“the beneficiary”) had not reached the age of 75 at the date of the beneficiary’s death,

(c) the lump sum death benefit is—

- (i) a drawdown pension fund lump sum death benefit under paragraph 17(2) of Schedule 29, or
- (ii) a flexi-access drawdown fund lump sum death benefit under paragraph 17A(2), (2A) or (2B) of Schedule 29, and

(d) the lump sum death benefit is not paid before the end of the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the beneficiary’s death and the day on which the scheme administrator could first reasonably have been expected to have known of it.”

(4) For subsection (7) (lump sum death benefits which are not to be treated as income for tax purposes) substitute—

“(7) A lump sum death benefit in respect of which income tax is charged under this section is not to be treated as income for any purpose of the Tax Acts.”

(5) In consequence of sub-paragraph (4) omit paragraph 41(5) of Schedule 16 to FA 2011.

18 In section 280(2) of FA 2004 (index of defined expressions) in the entry for “special lump sum death benefits charge” for “206(1)” substitute “206”.

*Uncrystallised funds lump sum death benefit*

19 (1) In paragraph 15 of Schedule 29 to FA 2004 (uncrystallised funds lump sum death benefit)—

- (a) in sub-paragraph (1) omit the second sentence (lump sum is uncrystallised funds lump sum death benefit only if paid before end of relevant two-year period), and
- (b) omit sub-paragraph (1A) (meaning of “relevant two-year period” in the second sentence of sub-paragraph (1)).

(2) In paragraph 16 of Schedule 32 to FA 2004 (benefit crystallisation event 7: uncrystallised funds lump sum death benefit is a “relevant lump sum death benefit”)—

- (a) in sub-paragraph (b) after “benefit” insert “, other than one—
  - (i) paid by a registered pension scheme in respect of a member of the scheme who had not reached the age of 75 at the date of the member’s death, but
  - (ii) not paid before the end of the relevant two-year period”, and
- (b) after sub-paragraph (b) insert—

“In sub-paragraph (b)(ii) “the relevant two-year period”, in relation to a member of a registered pension scheme, means the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the member’s death and the day on which the scheme administrator could first reasonably have been expected to have known of it.”

(3) In section 636A of ITEPA 2003 (exemption for certain lump sums under registered pension schemes)—

- (a) in subsection (1) (lump sums on which there is no liability to income tax)—
  - (i) after paragraph (ca) insert “or”, and
  - (ii) omit paragraph (e) and the “or” preceding it (uncrystallised funds lump sum death benefit paid in respect of member who dies under 75), and
- (b) in subsection (4)(aa) (on uncrystallised funds lump sum death benefit paid in respect of member who dies having reached 75 there is no liability to income tax other than liability under section 206 of FA 2004) omit “paid in respect of a member who had reached the age of 75 at the date of the member’s death”.

(4) In consequence of sub-paragraphs (1) and (3) omit—

- (a) paragraphs 35(2)(c) and (3) and 42(2)(c) of Schedule 16 to FA 2011, and
- (b) paragraph 28(2)(a) of Schedule 19 to FA 2007.

*Commencement*

20 The amendments made by paragraphs 17 and 19 apply to lump sums paid on or after 6 April 2015, and the amendment made by paragraph 18 comes into force on that day.

## PART 3

## UNCRYSTALLISED RIGHTS AT MEMBER’S DEATH

21 In section 216(1) of FA 2004 (benefit crystallisation events and amounts crystallised), in the table, after the entry relating to benefit crystallisation event 5B insert—

“5C. The designation, on or after 6 April 2015 but before the end of the relevant two-year period, of relevant unused uncrystallised funds as available for the payment, to a dependant or nominee of the individual, of (as the case may be) dependants’ flexi-access drawdown pension or nominees’ flexi-access drawdown pension

The aggregate of the amount of the sums and the market value of the assets designated”

22 (1) Section 217 of FA 2004 (persons liable to lifetime allowance charge) is amended as follows.

(2) After subsection (1) insert—

“(1A) Subsection (1) is subject to subsections (2) and (2A).”

(3) In subsection (2) for “But where” substitute “Where”.

(4) After subsection (2) insert—

“(2A) Where the liability arises by reason of a designation mentioned in the description of benefit crystallisation event 5C, it is a liability of the dependant or nominee (as the case may be).”

(5) For subsections (3) and (4) (multiple relevant lump sum death benefits) substitute—

“(3) Subsection (4) applies if—

- (a) two or more relevant post-death benefit crystallisation events occur in respect of an individual, and
- (b) tax is not chargeable on the whole of the total of the amounts crystallised by them.

(4) The person liable under subsection (2) or (2A) to the lifetime allowance charge charged by reason of the occurrence of any one of the relevant post-death benefit crystallisation events is liable to such portion of the total amount of the tax payable by reason of the relevant post-death benefit crystallisation events having occurred as appears to an officer of Revenue and Customs to be just and reasonable.

(4A) For the purposes of subsections (3) and (4), a benefit crystallisation event is a “relevant post-death benefit crystallisation event” if it is benefit crystallisation event 5C or 7.”

(6) The amendment made by sub-paragraph (5) comes into force on 6 April 2015.

23 (1) Section 219 of FA 2004 (availability of individual’s lifetime allowance) is amended as follows.

(2) In subsection (7) (cases where there is more than one benefit crystallisation event 7)—

- (a) after “more than one” insert “relevant post-death”,
- (b) omit “by reason of the payment of lump sum death benefits”, and
- (c) for “individual the” substitute “individual, the relevant post-death”.

(3) After subsection (7) insert—

“(7A) For the purposes of subsection (7), a benefit crystallisation event is a “relevant post-death benefit crystallisation event” if it is benefit crystallisation event 5C or 7.”

(4) The amendments made by this paragraph come into force on 6 April 2015.

24 (1) Schedule 32 to FA 2004 (supplementary provisions about benefit crystallisation events) is amended as follows.

(2) In paragraph 1 (meaning of “the relevant pension schemes”: in certain cases means schemes of which the individual was a member immediately before death) before “7” insert “5C or”.

(3) After paragraph 14A insert—

“Benefit crystallisation event 5C: meaning of “relevant two-year period”

14B For the purposes of benefit crystallisation event 5C “the relevant two-year period”, in relation to relevant unused uncrystallised funds held for the purposes of a money purchase arrangement relating to the individual under any of the relevant pension schemes, means the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the individual’s death and the day on which the scheme administrator could first reasonably have been expected to have known of it.

Benefit crystallisation event 5C: meaning of “relevant unused uncrystallised funds”

14C (1) For the purposes of benefit crystallisation event 5C, sums or assets held after the death of the individual for the purposes of a money purchase arrangement relating to the individual under any of the relevant pension schemes are relevant unused uncrystallised funds if—

- (a) they are unused uncrystallised funds, and
- (b) the individual had not reached the age of 75 at the date of the individual’s death.

(2) Paragraph 27E(4) and (5) of Schedule 28 (meaning of “unused uncrystallised funds”) apply for the purposes of sub-paragraph (1)(a), but as if references to the member were references to the individual.”

#### PART 4

##### INCOME TAX ON BENEFICIARIES’ INCOME WITHDRAWAL

25 (1) ITEPA 2003 is amended as follows.

(2) In section 573 (foreign pensions to which section 573 applies) after subsection (2) insert—

“(2A) This section does not apply to pension within section 574(1)(ba) if—

- (a) the pension is paid in respect of a deceased member of a pension scheme who had not reached the age of 75 at the date of death, and
- (b) no pension payments to the person entitled to the pension were made before 6 April 2015 in respect of the deceased member out of any of the following—
  - (i) the fund from which the pension is paid, and
  - (ii) any fund represented (to any extent) by that fund.

(2B) This section does not apply to pension within section 574(1)(bb) if the pension is paid in respect of a deceased individual who had not reached the age of 75 at the date of death.

(2C) Subsection (2A) is subject to subsection (2D).

(2D) This section does apply to pension within section 574(1)(ba) paid in respect of a deceased member of a pension scheme who had not reached the age of 75 at the date of death if the pension is paid in respect of sums or assets held for the purposes of the pension scheme under which the pension is paid (“the paying scheme”) that would, if the paying scheme were a registered pension scheme, be sums or assets—

- (a) representing unused uncrystallised funds (within the meaning of paragraph 27E(4) and (5) of Schedule 28 to FA 2004) in the deceased member’s case,
- (b) designated on or after 6 April 2015 as available for the payment of dependants’ drawdown pension or nominees’ drawdown pension, but
- (c) not so designated before the end of the period of two years beginning with the earlier of the day on which the scheme manager of the paying scheme first knew of the member’s death and the day on which the scheme manager could first reasonably have been expected to have known of it.”

(3) In section 574(1) (foreign pensions: meaning of “pension”)—

- (a) in paragraph (b) (“pension” includes amounts corresponding to income withdrawal or dependants’ income withdrawal)—
  - (i) omit “or dependants’ income withdrawal”, and
  - (ii) for “paragraphs 7 and 21” substitute “paragraph 7”, and
- (b) before the “and” at the end of paragraph (b) insert—
  - “(ba) an amount paid under a relevant non-UK scheme or an overseas pension scheme which, if the scheme were a registered pension scheme, would be dependants’ income withdrawal or nominees’ income withdrawal (within the meaning of paragraphs 21 and 27D of Schedule 28 to FA 2004),
  - (bb) an amount paid under a relevant non-UK scheme or an overseas pension scheme which, if the scheme were a registered pension scheme, would be successors’ income withdrawal (within the meaning of paragraph 27J of Schedule 28 to FA 2004).”

(4) In section 579A(1) (section applies to pensions under registered pension schemes, subject to subsection (2)) after “subsection (2)” insert “and section 579CZA”.

(5) After section 579C insert—

##### “579CZA Exemption for beneficiaries’ income withdrawal in some cases

(1) Section 579A does not apply to dependants’ income withdrawal or nominees’ income withdrawal if it is paid—

- (a) in respect of a deceased member of a registered pension scheme who had not reached the age of 75 at the date of the member’s death, and
- (b) to a person from the person’s—
  - (i) dependant’s drawdown pension fund,
  - (ii) dependant’s flexi-access drawdown fund, or
  - (iii) nominee’s flexi-access drawdown fund,
 in respect of a money purchase arrangement under a registered pension scheme.

(2) Section 579A does not apply to successors’ income withdrawal if it is paid—

- (a) in respect of a deceased beneficiary of a deceased member of a registered pension scheme where the beneficiary had not reached the age of 75 at the date of the beneficiary’s death, and
- (b) to a person from the person’s successor’s flexi-access drawdown fund in respect of a money purchase arrangement under a registered pension scheme,

and here “beneficiary” means dependant, nominee or successor.

(3) Subsection (1) is subject to the following provisions of this section.

(4) Section 579A does apply to dependants’ income withdrawal paid on or after 6 April 2015 to a person from the person’s dependant’s drawdown pension fund in respect of a money purchase arrangement under a registered pension scheme (“the drawdown fund”) if before 6 April 2015—

- (a) any payment of dependants’ income withdrawal was made from—
  - (i) the drawdown fund, or
  - (ii) any fund represented (to any extent) by the drawdown fund, or
- (b) any payment was made of a dependants’ short-term annuity purchased using sums or assets out of—
  - (i) the drawdown fund, or
  - (ii) any fund represented (to any extent) by the drawdown fund.

(5) Section 579A does apply to dependants’ income withdrawal paid in respect of a deceased member of a registered pension scheme to a person from the person’s dependant’s flexi-access drawdown fund in respect of a money purchase arrangement under a registered pension scheme (“the new fund”) if—

- (a) any of the sums or assets that make up the new fund—
  - (i) became newly-designated dependant funds under paragraph 22A(2)(b) of Schedule 28 to FA 2004 or as a result of the operation of any of paragraphs 22B to 22D of that Schedule, or
  - (ii) arise, or (directly or indirectly) derive, from any such newly-designated dependant funds or from sums or assets which so arise or derive,
- (b) before 6 April 2015 any payment of dependants’ income withdrawal in respect of the deceased member was made to the person from the person’s dependant’s drawdown pension fund in respect of a money purchase arrangement under a registered pension scheme, and
- (c) any of the sums or assets that made up that fund at the time of that payment to any extent make up, or are represented by sums or assets that to any extent make up, the new fund.

(6) Where relevant unused uncrystallised funds—

- (a) are designated on or after 6 April 2015 as available for the payment of dependants’ drawdown pension or nominees’ drawdown pension, and

(b) as a result of the designation make up (to any extent) a person's dependant's flexi-access drawdown fund or nominee's flexi-access drawdown fund in respect of a money purchase arrangement under a registered pension scheme, but

(c) are not so designated before the end of the relevant two-year period,

section 579A does apply to dependants' income withdrawal or nominees' income withdrawal paid to the person from the fund so far as it is paid in respect of sums or assets for the time being representing the whole or any part of those relevant unused uncrystallised funds.

(7) In this section—

“dependant”, “nominee” and “successor” have the meaning given (respectively) by paragraphs 15, 27A and 27F of Schedule 28 to FA 2004,

“dependant's drawdown pension fund”, “dependant's flexi-access drawdown fund”, “nominee's flexi-access drawdown fund” and “successor's flexi-access drawdown fund” have the meaning given (respectively) by paragraphs 22, 22A, 27E and 27K of Schedule 28 to FA 2004,

“money purchase arrangement” has the meaning given by section 152 of FA 2004, and

“the relevant two-year period”, in relation to relevant unused uncrystallised funds held for the purposes of a money purchase arrangement relating to a deceased individual under a registered pension scheme, means the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the individual's death and the day on which the scheme administrator could first reasonably have been expected to have known of it.

(8) For the purposes of this section, sums or assets held after the death of a member of a registered pension scheme for the purposes of a money purchase arrangement relating to the member under the scheme are “relevant unused uncrystallised funds” if—

- (a) they are unused uncrystallised funds, and
- (b) the member had not reached the age of 75 at the date of the member's death.

(9) Paragraph 27E(4) and (5) of Schedule 28 of FA 2004 (meaning of “unused uncrystallised funds”) apply for the purposes of subsection (8)(a).”

(6) In section 579D (interpretation of sections 579A to 579D)—

- (a) at the appropriate places insert—
  - ““nominees' income withdrawal” has the meaning given by paragraph 27D of that Schedule;”, and
  - ““successors' income withdrawal” has the meaning given by paragraph 27J of Schedule 28 to FA 2004.”, and
- (b) in paragraph (b) of the definition of “pension under a registered pension scheme” after “dependants' income withdrawal” insert “, or nominees' income withdrawal or successors' income withdrawal.”.

(7) The amendments made by sub-paragraphs (2) to (5) have effect in relation to pension paid on or after 6 April 2015.”—  
(*Mr Gauke.*)

*This new Schedule provides that persons other than dependants can inherit unused drawdown funds. For deaths before age 75, lump sum death benefits and flexi-access drawdown pensions from these funds can be paid tax free, subject (for example) to the member having sufficient available lifetime allowance.*

*Brought up, read the First and Second time, and added to the Bill.*

*Clause 3 ordered to stand part of the Bill.*

*Question proposed, That the Chair do report the Bill, as amended, to the House.*

**Mr Gauke:** I would like to thank you, Ms Dorries, for chairing our proceedings, and I also thank Mr Weir for his efforts in keeping us on the straight and narrow. May I also thank the Clerks, the *Hansard* Reporters, the police and attendants for ensuring that all has gone smoothly?

I thank the hon. Member for Kilmarnock and Loudoun for her thorough scrutiny of the Bill, at some length. I also thank my hon. Friend the Member for Croydon Central and the hon. Member for Scunthorpe for ensuring that there was smooth co-operation to make progress. I thank all right hon. and hon. Members for their contributions, particularly my hon. Friend the Member for Stourbridge for her assistance, and my hon. Friend the Member for Pendle, who stepped in to help.

I think that we can be proud of a Bill that will provide greater flexibility and choice for our constituents. I am pleased that we were able to make progress in a good spirit and that there appears to be a consensus, notwithstanding some of the lengthy debates that we have had.

**Cathy Jamieson:** I would also like to take this opportunity to thank you, Ms Dorries, and Mr Weir for keeping us in order during some lengthy discourses. I also thank the Clerks and reporters, the officials who have provided inspiration during our proceedings, and the police and attendants who, thankfully, were not called upon to intervene at any point during our proceedings.

I thank the Whips and the Minister for how they have dealt with the Bill. The Minister made some kind remarks about our thorough scrutiny of the Bill. As an Opposition, we take our responsibilities extremely seriously. I like nothing more than spending time on the detail to ensure that Ministers have some work to do during our proceedings, and this Minister has done so in his inimitable style. We have made progress and done the Bill justice, and I look forward to its further consideration.

*Question put and agreed to.*

*Bill, as amended, accordingly to be reported.*

12.22 pm

*Committee rose.*

**Written evidence reported to the House**

TP 14 National Association of Pension Funds

TP 15 National Association of Pension Funds -  
supplementary

TP 16 Financial Conduct Authority

TP 17 Britannia Financial Services Ltd, Auckland,  
New Zealand

TP 18 Partnership

