HOUSE OF LORDS

Library Briefing

Pension Schemes Bill [HL]
HL Bill 5 of 2019–20

Summary

On 30 October 2019, the second reading of the Pension Schemes Bill [HL] is scheduled to take place in the House of Lords. This briefing looks at the three principal areas the bill addresses: collective defined contribution pensions, the Pensions Regulator, and pensions dashboards.

One of the aims of the bill is to establish a framework for collective defined contribution pensions in the UK. These would be termed collective money purchase schemes in the legislation. Part 1 of the Pension Schemes Bill would establish a framework for setting up, operating and regulating collective money purchase schemes in England, Wales and Scotland. Part 2 would make provisions similar to those in Part 1 for Northern Ireland.

Part 3 of the bill would give new powers to the Pensions Regulator, the UK regulator of workplace pension schemes. The purpose of strengthening the powers of the regulator is so that it can respond earlier when employers put the viability of their pension schemes at risk.

Part 4 of the bill would set up a system for pensions dashboards. A pensions dashboard is a consumer-friendly digital interface that displays information about all of an individual's pensions savings in one place. The bill would compel pension schemes to provide their savers' data to dashboards and make other provisions allowing for the establishment of private dashboards and a state-sponsored dashboard.

The bill also contains provisions relating to:

- the funding of direct benefit pension schemes;
- pension scheme members' right to transfer their pension savings;
- defining pensionable service for the purposes of calculating compensation from the Pension Protection Fund; and
- clarifying the definition of administration charges.

The bill has been broadly welcomed by other political parties and the pension industry. However, many commentators have noted the absence of measures they hoped would also have been included in the bill, such as expanding pensions auto-enrolment and regulation of 'superfunds'.

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1. Parts 1 and 2: Collective Money Purchase Schemes (Collective Defined Contribution Schemes)

'Collective money purchase scheme' (CMPS) is the legislative term for a type of pension scheme commonly known as a collective defined contribution pension scheme. Part 1 of the Pension Schemes Bill would establish a framework for setting up, operating and regulating collective money purchase schemes in England, Wales and Scotland. Part 2 makes provisions similar to those in Part 1 for Northern Ireland.

1.1 Collective Money Purchase Schemes (Collective Defined Contribution Pension Schemes)

In addition to the state pension, there are two main types of private pension in the UK: defined benefit schemes and defined contribution schemes.[1]

Defined Benefit Schemes

In defined benefit pension schemes, members pay to belong to the scheme. In return, they are promised a pension of a certain value. The risk of the scheme's assets not being sufficient to meet its liabilities is borne by the employer; if the scheme has insufficient assets to meet its pension promises, the employer must make additional contributions. Many employers have closed their defined benefit pension schemes to new entrants, and the number of people actively contributing to defined benefit pension schemes has decreased dramatically over the last decade.[2]

Defined Contribution Schemes

In defined contribution pension schemes, individuals and employers contribute to an individual's savings 'pot' within a pension scheme.[3] This money is managed by the scheme, and the individual is only entitled to the value of their assets. When the member decides to take retirement income, they can use this money to buy an annuity, or take part of it in cash and leave the rest invested. They are not guaranteed a certain level of pension.

Collective Money Purchase Scheme or Collective Defined Contribution Pension Scheme

In a CMPS or collective defined contribution pension, members make

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[1] House of Commons Work and Pensions Committee, *Collective Defined Contribution Pensions*, 16 July 2018, HC 580 of session 2017–19, pp 5–6.
[2] ibid, p 5.
[3] ibid.

defined contributions to the scheme.[4] These contributions are pooled and invested by the scheme. Pensions are paid to members when they take retirement income. The scheme's trustees aim to pay pension benefits at a target level, but this is not guaranteed and may be reduced if the scheme's assets do not allow it to meet its liabilities. The collective nature of the scheme means that risks such as longevity, market fluctuations and inflation are shared among the scheme's members. In addition, because the fund is administered and managed collectively, members do not need to make choices about how to invest funds or how to convert assets into income upon retirement.[5]

Collective defined contribution schemes are widely used in the Netherlands and in Denmark.[6] First and second place in the Melbourne Mercer Global Pension Index, which ranks countries for the adequacy, sustainability and integrity of their pensions systems, were awarded to the Netherlands and Denmark in 2018, 2017 and 2016.[7] The UK was ranked 15th in 2018, 12th in 2017 and 11th in 2016.

1.2 Policy Background

Current Legislation

Currently, only two types of private pension benefit exist in UK law: 'money purchase' and 'non-money-purchase' schemes.[8] 'Money purchase' schemes are pension schemes where benefits are limited to what the individual can purchase with their assets. Most defined contribution schemes are money purchase schemes. 'Non-money-purchase' refers to schemes in which the employer must cover the costs if the scheme cannot meet its obligations. Most defined benefit schemes are non-money-purchase schemes.

The Pension Schemes Act 2015 allows for additional types of pension schemes. It includes provisions for risk to be shared between individual scheme members through the payment of collective benefits, the value of which could vary. This legislation could incorporate collective defined contribution pensions.[9] However, these provisions are not yet in force.

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[4] House of Commons Work and Pensions Committee, *Collective Defined Contribution Pensions*, 16 July 2018, HC 580 of session 2017–19, p 7.
[5] Department for Work and Pensions, *Delivering Collective Defined Contribution Pension Schemes*, November 2018, p 12.
[6] House of Commons Work and Pensions Committee, *Collective Defined Contribution Pensions*, 16 July 2018, HC 580 of session 2017–19, p 7.
[7] Australian Centre for Financial Studies and Mercer, *Melbourne Mercer Global Pension Index: 2018 Report Highlights*, 2018, p 1; and *Melbourne Mercer Global Pension Index 2017*, 2017, p 17.
[8] House of Commons Work and Pensions Committee, *Collective Defined Contribution Pensions*, 16 July 2018, HC 580 of session 2017–19, p 19.
[9] ibid.

In written evidence submitted to the House of Commons Work and Pensions Committee in February 2018, the Minister for Pensions and Financial Inclusion, Guy Opperman, stated that implementing these provisions would require "the introduction of a comprehensive set of secondary legislation", which the Government did not consider a priority at that time.[10] The Minister also stated that because the provisions for collective benefits in the Act were part of wider reforms, the "legislative framework set out in the 2015 Act is not the most efficient way of introducing the narrower collective benefit-style pension scheme being called for by the current advocates of such schemes".

Royal Mail and Communication Workers Union Proposal

In January 2018, Royal Mail and the Communication Workers Union wrote to the House of Commons Work and Pensions Committee to say that they would like to create a collective defined contribution pension scheme for Royal Mail employees.[11] This proposal was agreed by Royal Mail and the Communication Workers Union following the union's objection to Royal Mail's proposal to replace its defined benefit scheme with a defined contribution scheme.

The Government stated that Royal Mail and the Communication Workers Union's proposals created a "new impetus" for the Government to consider how such schemes could be facilitated.[12]

House of Commons Work and Pensions Committee Report

In July 2018, the House of Commons Work and Pensions Committee published a report into collective defined contribution pensions. The report recommended that the Government establish a framework for "a new wave of collective pensions in the UK".[13]

Government Consultation

In November 2018, the Government launched a consultation on delivering collective defined contribution pension schemes. In the consultation document, the Government stated that "Royal Mail's initiative could be a model for other employers and other workforces to launch their own

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[10] House of Commons Work and Pensions Committee, *Written Evidence from the Department for Work and Pensions*, February 2018.
[11] House of Commons Work and Pensions Committee, *Collective Defined Contribution Pensions*, 16 July 2018, HC 580 of session 2017–19, p 16.
[12] Department for Work and Pensions, *Delivering Collective Defined Contribution Pension Schemes*, November 2018, p 17.
[13] House of Commons Work and Pensions Committee, *Collective Defined Contribution Pensions*, 16 July 2018, HC 580 of session 2017–19, p 4.

collective defined contribution scheme".[14]

In the consultation paper, the Government argued that it would be more efficient to bring forward new legislation to provide for collective defined contribution schemes than to implement the provisions in the Pension Schemes Act 2015.[15] This is because the provisions for collective benefits in the 2015 Act are part of wider reforms to the pension system, for which the Government concluded there was "no appetite amongst employers, workers and pension providers".[16] In addition, the Government said that its analysis of the best way to provide collective defined contribution schemes had developed since the 2015 Act was passed.

The Government stated that in bringing forward new legislation it could ensure that collective defined contribution benefits would be classed as a type of money purchase benefit, assuring employers about the limits of their liabilities to the scheme. In addition, in new legislation collective defined contribution schemes could be defined in a way that meant an appropriate regulatory and assurance regime could be attached to them.

In March 2019, the Government published its response to the consultation. It summarised that the consultation responses agreed that the biggest risk in introducing collective defined contribution schemes would be communicating the variable nature of the pension income.[17] The Government stated that it would seek to bring forward legislation to provide a framework for collective defined contribution schemes.[18]

1.3 What the Bill Does

Part 1 of the bill establishes a framework for introducing collective defined benefit schemes, which in the bill are termed collective money purchase schemes (CMPSs). Benefits derived from such a scheme are termed collective money purchase benefits (CMPBs). This benefit would be calculated according to the scheme rules and paid as a pension income for life.[19]

Clause 2 of the bill states that the benefits of a CMPS must be paid out from the assets of the scheme. This means that there would be no risk or liability

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[14] Department for Work and Pensions, *Delivering Collective Defined Contribution Pension Schemes*, November 2018, p 10.
[15] ibid, pp 17–18.
[16] ibid.
[17] Department for Work and Pensions, *Delivering Collective Defined Contribution Pension Schemes: Government Response to the Consultation*, March 2019, para 4.
[18] ibid, para 217.
[19] Explanatory Notes, p 20.

for the employer. It also means that there is no guaranteed level of benefit.[20]

Clause 3 sets out what schemes qualify for the definition of a CMPS. To qualify, a scheme must be an occupational pension scheme set up by an employer or group of employers. Under subsection (4), public service pension schemes cannot provide CMPBs. Clause 4 defines a public service pension scheme.

Clause 5 provides for regulations that would state the conditions under which a qualifying scheme should be divided into sections, and how the CMPS status would apply to different sections.

Clause 7 states that CMPSs must be authorised by the Pensions Regulator. To become authorised, a scheme would be obliged to meet the criteria set out in clause 9. Subsection (2) of clause 7 provides for penalties for people found to be operating an unauthorised CMPS.

Clause 8 sets out how people would be able apply for a CMPS to be authorised, and clause 9 provides the basis on which the Pensions Regulator would make its decision on whether or not to authorise a scheme. Clause 10 would provide for a referral tribunal for anyone affected by the regulator's decision not to authorise a scheme.

Clauses 11–17 provide further detail on the authorisation criteria set out in clause 9(3).

Clauses 18–23 specify how CMPBs would be calculated and adjusted, including the role of the scheme actuary and the power of the Pensions Regulator to direct scheme trustees to obtain an actuarial valuation.

Clause 24 would ensure that members of CMPS schemes have a right to their benefit, though this would not be a guaranteed amount.

Clause 25 would give people entitled to CMPB the right to transfer their accrued pension rights to another pension scheme. Subsections of clause 25 make provisions for how this would operate.[21]

Clauses 26 sets out how the Pensions Regulator would supervise CMPSs, and would give it the right to withdraw authorisation from a scheme if it decides it no longer meets the criteria.

Clauses 31–45 set out what would happen if a "triggering event" occurs.

[20] Explanatory Notes, p 13.
[21] ibid, p 20.

Triggering events are events that pose a risk to the scheme, and are defined in the table in subsection (4) of clause 31. If one of these events occurs, clause 34 would provide that trustees of the scheme must pursue one of three "continuity options". These are:

- discharge the scheme's liabilities and wind the scheme up;
- resolve the triggering event and continue to operate the qualifying scheme; or
- close the scheme.[22]

Part two (clauses 52–102) would make provisions for Northern Ireland similar to those set out in clauses 1–51 for England, Wales and Scotland.

1.4 Comment

The Pensions and Lifetime Savings Association, an industry body, welcomed the bill's provisions for collective defined contribution pensions, stating:

> CDC schemes offer employers increased flexibility and choice in how they structure schemes to benefit savers. CDC schemes may provide a good option for employers who want to replace a defined benefit scheme, but do not want to move to individual defined contribution. They could also play a useful role in helping savers access the benefits of risk pooling in a DC [defined contribution] environment, particularly in decumulation.[23]

However, a recent article in the *Financial Times* argued that the introduction of collective defined contribution pension schemes could have a negative impact on members of defined benefit schemes.[24] The journalist highlighted that if an employer chose to replace a defined benefit scheme with a collective defined contribution scheme, this would be likely to result in reduced benefits for members compared with continuing the defined benefit scheme.

2. Part 3: Pensions Regulator

The Pensions Regulator is the UK regulator of workplace pension schemes. One of its statutory duties is to protect the benefits of pension schemes.[25] To this end, it can investigate breaches of regulations and actions which may

[22] Explanatory Notes, p 24.
[23] Pensions and Lifetime Savings Association, 'PLSA Comments on New Pension Schemes Bill', 14 October 2019.
[24] Josephine Cumbo, 'Collective Schemes Pose Threat to Final Salary Pensions', *Financial Times* (£), 18 October 2019.
[25] Explanatory Notes, p 6.

negatively affect pension schemes. It can impose civil penalties, undertake criminal prosecutions and order employers to make payments into a pension scheme.

One of the purposes of the Pension Schemes Bill is to enhance the Pension Regulator's powers so it "can respond earlier when employers do not take their pension responsibilities seriously".[26]

2.1 Policy Background

House of Commons Department for Work and Pensions Committee Inquiry

In December 2016, the House of Commons Work and Pensions Committee published a report into defined benefit pension schemes. This report was partly triggered by a previous investigation into the growth of the deficit in the retailer BHS's defined benefit pension schemes and the failure of the directors to resolve this deficit.[27] After BHS became insolvent and ceased trading, there was uncertainty about the benefits the members of its pension schemes would receive. Following negotiations between the Pensions Regulator and Sir Philip Green, the company's former owner, an agreement was reached under which the schemes' members would receive the same starting pension as they were originally promised, though subsequent payments would be lower.[28]

In its December 2016 report, the House of Commons Work and Pensions Committee found that while "BHS was in many ways an extraordinary case", there was cause for "considerable concerns about the wider direct benefit sector and its regulation".[29] The committee recommended that the Government consult on measures to reform the sector, including measures to strengthen the powers of the Pensions Regulator so as to deter employers from neglecting their responsibilities to their pension schemes.

Government White Paper and Consultation

In March 2018, the Government published a white paper entitled *Protecting*

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[26] Prime Minister's Office, *The Queen's Speech and Associated Background Briefing, on the Occasion of the Opening of Parliament on Monday 14 October 2019*, 14 October 2019, p 68.
[27] House of Commons Work and Pensions Committee, *Defined Benefit Pension Schemes*, 21 December 2016, HC 55 of session 2016–17, p 7.
[28] Kevin Peachey, 'Sir Philip Green Strikes BHS Pension Deal with Regulator', BBC News, 28 February 2017.
[29] House of Commons Work and Pensions Committee, *Defined Benefit Pension Schemes*, 21 December 2016, HC 55 of session 2016–17, p 7.

Defined Benefit Pension Schemes.[30] In this paper, the Government stated that it believed the current system works well for the majority of defined benefit schemes and there is "no systemic problem in the regulatory and legislative framework".[31] However, it stated that there is a need to "guard against the small minority of employers who may be content to put [their pension scheme] at risk".[32]

To this end, the Government proposed measures to "prevent and punish those whose deliberate actions put pension schemes at risk".[33] This included: [34]

- strengthening the regulatory framework and the regulator's powers to punish those who deliberately put their pension scheme at risk;
- ensuring employers have appropriate regard to pension considerations in relevant corporate transactions; and
- ensuring the regulator has access to the information it needs to conduct investigations effectively.

In June 2018, the Government launched a consultation entitled *Protecting Defined Benefit Pension Schemes—A Stronger Pensions Regulator*.[35] This paper sought views on the Government's proposals to increase protection for defined benefit pension schemes, including proposals to:[36]

- strengthen the law and rules regarding contribution notices (a mechanism by which the Pensions Regulator can require an employer to pay money into a defined benefit pension scheme);
- widen the scope of 'notifiable events' (events which may have a detrimental effect on the pension scheme and of which the Pensions Regulator must be notified) to include certain corporate transactions and board and senior management decisions;
- establish a new duty for employers to issue a declaration accompanying certain corporate transactions, setting out how the transaction will affect the pension scheme and any actions to mitigate risk to the pension;

[30] Department for Work and Pensions, *Protecting Defined Benefit Pension Schemes*, 19 March 2018, Cm 9591.
[31] ibid, p 4.
[32] ibid, p 6.
[33] ibid.
[34] ibid, pp 6–7.
[35] Department for Work and Pensions, *Protecting Defined Benefit Pension Schemes—A Stronger Pensions Regulator*, June 2018.
[36] ibid, pp 8–23.

- establish a system for companies to voluntarily clear corporate transactions with the regulator; and
- establish new powers for the Pensions Regulator and courts to issue fines of up to £1 million and impose criminal sanctions.

In February 2019, the Government published its response to the feedback it had received on its consultation paper. As a result of consultation responses, it decided not to include some of the proposed events in the new notifiable events framework, and said it would consult further on other aspects of the notifiable events framework.[37] In addition, the Government decided to proceed with new criminal offences for wilful or reckless behaviour in relation to a pension scheme and failure to comply with a contribution notice, but not for failure to comply with the notifiable offence framework. It proposed that this would instead be subject to a new civil financial penalty.[38] Other changes included commitments to consult further or to work with the Pensions Regulator on any further changes.

2.2 What the Bill Does

Clauses 103–6 deal with contribution notices. Under existing law, the Pensions Regulator can, in certain circumstances, issue a contribution notice to an employer, requiring it to pay money into a defined benefit pension scheme.[39] Clause 103 would provide for two additional instances in which the Pensions Regulator could issue a contribution notice. Clause 106 would provide for new sanctions for failing to comply with a contribution notice.

Clause 107 would establish new criminal offences and financial penalties that could be imposed on employers deemed to be avoiding their debts in relation to defined benefit pension schemes or undertaking conduct which risks accrued scheme benefits. The maximum penalty for these offences would be up to seven years' imprisonment, a fine, or both.[40]

Clauses 108–9 would make provisions concerning the duty of employers or defined benefit pension scheme trustees to notify the Pensions Regulator of certain events. This duty, the purpose of which is to reduce the risk of compensation being payable from the Pension Protection Fund, is set out in section 69 of the Pensions Act 2004.[41] Clause 108 would replace the existing penalty for non-compliance with this duty with a new financial penalty; this

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[37] Department for Work and Pensions, *Government Response to the Consultation on Protecting Defined Benefit Pension Schemes—A Stronger Pensions Regulator*, February 2019, pp 8–14.
[38] ibid, p 22.
[39] Practical Law, 'Contribution Notice', accessed 18 October 2019.
[40] Explanatory Notes, p 43.
[41] Pensions Regulator, 'Code 02: Notifiable Events', accessed 18 October 2019.

penalty is established by clause 115 and would be up to £1 million.[42]

Clause 109 would establish a new duty for employers and other prescribed persons to notify the Pensions Regulator about certain events relating to the sponsoring employer of a defined benefit pension scheme.[43] These events are to be prescribed by regulations, and could include corporate transactions, as set out in the Government's consultation document.

Clauses 110–14 cover the Pensions Regulator's powers to gather information and to sanction those who provide it with false or misleading information. Clauses 110–12 would give the Pensions Regulator new powers to collect information from specified people connected with pension schemes, and to issue penalties for non-compliance with its information-gathering activities.[44] Clause 113 would enable the Pensions Regulator to issue a financial penalty for providing it with false or misleading information, and clause 114 would allow it to issue a financial penalty for providing false or misleading information to trustees or managers.[45] These penalties would be a maximum of £1 million.

The new financial penalty in clauses 108, 109, 113 and 114 would be established by clause 115.

Clause 116 gives effect to schedule 7, which makes minor and consequential amendments.

Clause 117 introduces schedule 8, which makes provision for Northern Ireland corresponding to that made for England, Wales and Scotland in clauses 103–16.

2.3 Comment

The Pensions and Lifetime Savings Association, an industry body, welcomed the proposed new powers for the Pensions Regulator, stating:

> We support new powers for the Pensions Regulator to take action sooner, impose significant fines, and have more oversight of risky corporate transactions in order to prevent reckless behaviour and protect savers' hard-earned money.[46]

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[42] Explanatory Notes, p 46; Department for Work and Pensions, *Enhancing the Occupational Pension Schemes' Sanctions Regime*, 15 October 2019, p 2.
[43] Explanatory Notes, p 47.
[44] Explanatory Notes, p 48, and Pensions Act 2004, s 72(2), as amended.
[45] Explanatory Notes, p 50.
[46] Pensions and Lifetime Savings Association, 'PLSA Comments on New Pension Schemes Bill', 14 October 2019.

Tom McPhail, Head of Pensions Policy at pensions provider Hargreaves Lansdown, also welcomed the measures:

> Regulatory powers in the bill will also give the Pensions Regulator more powers in taking to task employers who may be neglecting their final salary schemes in favour of paying dividends out to shareholders. It will help strengthen the protection of employees' guaranteed pensions, and hopefully cut down on the type of scandals we've seen with BHS and Carillion in recent years.[47]

3. Part 4: Establishing Pensions Dashboards

A pensions dashboard is a consumer-friendly digital interface that displays information about all of an individual's pensions savings in one place.[48] The aim of pensions dashboards is to support individuals to plan more effectively for their retirement.[49]

3.1 Policy Background

In March 2016, the Treasury and the Financial Conduct Authority (FCA) published a report into the financial advice market. This report noted that people can build up several pension pots in different places over their working lives, and therefore it can be difficult for consumers to access their savings data.[50] The report recommended that pensions dashboards be made available in the UK.[51] The report envisaged that the Treasury's role in setting up pensions dashboards would be to bring together industry and consumer representatives to help them "set direction and drive progress".

In the 2016 Budget, the Government said it would "ensure the industry designs, funds and launches a pensions dashboard by 2019".[52]

The Department for Work and Pensions launched a consultation on delivering pensions dashboards in December 2018.[53] In its consultation document, the Government stated that "12 million people [are] thought to

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47 Michelle Stevens, '[Pensions Industry Reacts to Queen's Speech Announcements](#)', *Money Age*, 14 October 2019.

48 Financial Conduct Authority and HM Treasury, *Financial Advice Market Review*, March 2016, p 47.

49 Department for Work and Pensions, *Pensions Dashboards: Working Together for the Consumer*, December 2018, Cm 9719, p 7.

50 Financial Conduct Authority and HM Treasury, *Financial Advice Market Review*, March 2016, p 42.

51 ibid, p 11.

52 HM Treasury, *Budget 2016*, March 2016, p 36.

53 Department for Work and Pensions, *Pensions Dashboards: Working Together for the Consumer*, December 2018, Cm 9719.

be under-saving for their pension and savers are not engaged fully with their savings".[54] The Government said that while existing legislation would allow for the creation of pensions dashboards, legislation would be necessary to compel pension schemes to provide dashboards with data and ensure dashboards are widely available in a timely manner.[55]

The Government stated that while it had committed to funding its role in facilitating the development of dashboards, the pensions industry should fund the governance structure, development and delivery costs, a non-commercial dashboard, and any new regulatory functions.[56]

Following the consultation, the Government concluded that it would introduce legislation to compel pension schemes to provide data, but that existing regulatory frameworks would provide appropriate consumer protections.[57] The Government also said:[58]

- the single financial guidance body (now the Money and Pensions Service) would convene a delivery group to lead the design and initial delivery of the project;
- the pensions industry would provide dashboards;
- the Money and Pensions Service would run its own non-commercial dashboard; and
- it would work with industry providers to ensure the state pension is included in the dashboards.

3.2 What the Bill Does

Clauses 118 and 119 of the Pension Schemes Bill would give the Secretary of State the power to make regulations setting up a pensions dashboard system and compelling pension schemes to provide information for them.

Clause 120 introduces schedule 9, which contains provision for Northern Ireland corresponding to that made for England, Wales and Scotland set out in clauses 118 and 119.[59]

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[54] Department for Work and Pensions, *Pensions Dashboards: Working Together for the Consumer*, December 2018, Cm 9719, p 6.
[55] ibid, p 8–9.
[56] ibid, p 10.
[57] Department for Work and Pensions, *Pensions Dashboards: Government Response to the Consultation*, April 2019, CP 75, p 25.
[58] ibid, pp 6–8.
[59] Explanatory Notes, p 59.

Clause 121 sets out that the FCA would be obliged to make rules in relation to pension schemes with respect to the provision of pension dashboard services.

Clause 122 would insert a new section into the Financial Guidance and Claims Act 2018 setting out that the Money and Pensions Service may provide information about the state pension and carry out functions in relation to pensions dashboard services.

3.3 Comment

The Pensions and Lifetime Savings Association, an industry body, stated its support for pensions dashboards and legislation requiring schemes to submit their savers' data. The Association said that "measures that make it easier for people to see all of their pensions savings (state and private) in one place […] offer a major opportunity to help savers to achieve better retirement incomes".[60]

However, the President of the Pensions Administration Standards Association, Margaret Snowdon, expressed concern that improving the standard of data so that it is usable for pensions dashboards would impose a large cost on the pensions industry.[61] Ms Snowdon told the Pensions and Lifetime Savings Association's annual conference that the pensions industry could be required to spend £25 million over four years to improve its data to comply with the proposed legislation.

4. Part 5: Further Provisions

4.1 Defined Benefit Schemes: Funding

Clause 123 introduces schedule 10, which would provide for amendments to the statutory framework for defined benefit pension scheme funding.

In a white paper published in March 2018, the Government stated that most defined benefit pension schemes are well managed and should be able to meet their obligations. However, the Government believed it would be beneficial to put in place measures to improve decision making and governance across the sector.[62] The Government said it would introduce

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60 Pensions and Lifetime Savings Association, 'PLSA Comments on New Pension Schemes Bill', 14 October 2019

61 Maria Espadinha, 'Providers Face £25m Pension Dashboard Bill', *FT Adviser*, 17 October 2019.

62 Department for Work and Pensions, *Protecting Defined Benefit Pension Schemes*, March 2018, CM 9591, p 5.

legislation to:[63]

- strengthen the regulator's ability to enforce defined benefit scheme funding standards;
- require the trustees of defined benefit pension schemes to appoint a chair; and
- require the chair to submit a statement on key funding decisions to the regulator.

Schedule 10 of the Bill would implement these proposals. It would impose a duty on pension trustees or managers to have a funding and investment strategy, for the purpose of ensuring that benefits can be paid in the long term. The schedule sets out what elements that strategy would need to include.[64] It also states that the trustees or managers would be obliged to obtain the sponsoring employer's agreement to the strategy.[65]

Schedule 10 would require certain pension scheme trustees to appoint a chair. It would require the trustees to submit a statement setting out the scheme's funding and investment strategy, signed by the chair, to the Pensions Regulator at regular intervals.

4.2 Transfer Rights

Clause 124 would make amendments to the law governing a person's rights to move their accrued pension rights to a different pension scheme.[66] The purpose of these proposed changes is to prevent pension scheme members from falling victim to scams.

Under existing law, certain pension scheme members have a statutory right to transfer their pension benefits to another pension scheme.[67] At present, if trustees or scheme managers suspect that the receiving scheme is fraudulent, they do not have a legal basis to refuse a transfer request if they do not have evidence to support their view.[68] Research conducted in 2016 by a pensions consultancy found signs of potential scam activity in 11 percent of pension transfer requests.[69]

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[63] Department for Work and Pensions, *Protecting Defined Benefit Pension Schemes*, March 2018, CM 9591, pp 19 and 24.
[64] Explanatory Notes, p 62.
[65] ibid, p 64.
[66] ibid, p 65.
[67] Department for Work and Pensions, *Impact Assessment (Bill Final): Legislating to Help Trustees Ensure that Transfers of Pension Savings Are Made to Safe and Not Fraudulent Schemes*, 15 October 2019, p 1.
[68] ibid.
[69] XPS Pensions Group, 'Possible Scams in 11 Percent of Pension Transfer Cases Finds Xafinity', 25 May 2016.

In December 2016, the Government launched a consultation on measures to reduce the incidence of pension scams. Following the consultation, the Government said it would introduce several measures to protect pension scheme members, including "tougher actions to help prevent the transfer of money from occupational pension schemes into fraudulent ones".[70]

Clause 124 would place conditions on the right of a member to transfer their accrued pension rights to a different pension scheme. It would provide for a power to make regulations setting certain conditions which must be met before a member would be able to transfer their pension rights. It would also change the existing law regarding the time period within which trustees and managers are obliged to comply with a request from a member to transfer their pension rights.

4.3 Pension Protection Fund: Pensionable Service

The Pension Protection Fund (PPF) pays compensation to members of eligible defined benefit pension schemes if the sponsoring employer becomes insolvent and the pension scheme's assets are insufficient to meet its pension commitments.[71] In some cases there is a cap on the amount of compensation an individual can receive. The PPF is funded by a levy on all eligible schemes.[72]

When the PPF was established, it was intended that a pension transferred into a PPF-eligible scheme would count towards pensionable service for the purpose of the PPF's calculations.[73] However, a High Court ruling in 2017 determined that pension benefits derived from a pension transferred into a PPF-eligible scheme are not attributable to pensionable service. The Government introduced regulations in 2018 that enable a pension transfer to be treated as pensionable service for the purpose of calculating PPF compensation, except for the purpose of the compensation cap.

Clause 125 provides for the amendments made in 2018 to be treated as if they had always applied.[74] Therefore benefits taken on by the PPF before the 2018 regulations took effect would also be calculated according to the present law.

4.4 Administration Charges

Since April 2015, successive governments have introduced regulations

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[70] Department for Work and Pensions, 'Pension Scams', 21 August 2017.

[71] Explanatory Notes, p 10.

[72] Pension Protection Fund, 'How We're Funded', accessed 22 October 2019.

[73] Explanatory Notes, p 10.

[74] ibid.

intended to reduce the amount members of occupational pension schemes pay in charges.[75] Since these changes were made, the Government has received queries from the pensions industry about how the definition of the term "administration charge" is used in the legislation.[76] Clause 126 would amend the definition of administration charge in existing legislation to provide clarification.

5. Comment

5.1 Opposition Parties' Reaction

In his speech in response to the October 2019 Queen's Speech, the Leader of the Labour Party, Jeremy Corbyn, welcomed the proposals in the Pension Schemes Bill. However, he argued that the bill should have included measures to compensate women who started receiving their pension at a later age than they originally anticipated:

> The introduction of pension dashboards is welcome, as is the legislation for CDC—collective defined contribution—pension schemes, which I hope will help to resolve the Royal Mail dispute. Sadly, the proposals do nothing to address the injustice done to women born in the 1950s.[77]

The Westminster leader of the Scottish National Party, Ian Blackford, also argued that the bill should have included compensation for women affected by the raising of the state pension age. He said: "the Government have a responsibility to address the hardship visited on hundreds of thousands of those women".[78] In addition, Mr Blackford called for "the establishment of an independent pensions and savings commission to deal with policy gaps in delivering dignity in retirement", arguing that a "robust and responsive policy" is needed to deal with a "crisis in pensions saving".[79]

In its 2017 general election manifesto, the Liberal Democrats advocated for the establishment of a review to consider introducing a single rate of tax relief for pensions which would be "set more generously" than the current 20 percent basic rate relief.[80]

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[75] Department for Work and Pensions, *Impact Assessment (Final): Clarification of the Coverage of the Administration Charge Definition*, 15 October 2019.
[76] Explanatory Notes, p 10.
[77] HC *Hansard*, 14 October 2019, col 17. For more information on this issue please see: House of Commons Library, *Increases in the State Pension Age for Women Born in the 1950s*, 15 October 2019.
[78] ibid, col 38.
[79] ibid.
[80] Liberal Democrats, *Liberal Democrat Manifesto 2017*, May 2017, p 60.

5.2 Industry Reaction

Several commentators highlighted the absence of measures they had hoped would be included in the Pension Schemes Bill. Steve Webb, Director of Policy at pension provider Royal London and former pensions minister, argued that "this bill is notable more for the things that have been left out than for what it contains".[81] He pointed to a lack of measures advocated by some in the industry, such as expanding auto-enrolment saving and regulation of direct benefit "superfunds".

Matthew Arends, Head of UK Retirement Policy at Aon, a pension provider, also noted that the bill does not include a rise in auto-enrolment minimum contribution rates, nor expansion of auto-enrolment to the self-employed.[82]

Commentators also pointed to other anticipated measures which were not in the bill, such as remedying of discrepancies in the tax treatment of relief at source schemes versus net payment schemes, and unintended consequences of pension taxation rules for high earners.[83]

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[81] Michelle Stevens, 'Pensions Industry Reacts to Queen's Speech Announcements', *Money Age*, 14 October 2019.

[82] Maria Espandinha, 'Industry Points to Missed Opportunities in Pensions Bill', *FT Adviser*, 14 October 2019.

[83] ibid.