Northern Ireland Assembly

Committee for Communities

Report on the Pension Schemes Bill

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Powers and Membership

Powers

The Committee for Communities is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Assembly Standing Order No 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department for Communities and has a role in the initiation of legislation.

The Committee has power to:

- consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
- approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
- call for persons and papers;
- initiate enquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister of Communities.

Membership

The Committee has 9 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows:

Paula Bradley MLA (Chairperson)
Kellie Armstrong MLA (Deputy Chairperson)
Andy Allen MBE MLA
Alex Easton MLA*
Mark Durkan MLA
Sinéad Ennis MLA
Fra McCann MLA
Robin Newton MBE MLA
Carál Ní Chuilín MLA

*Alex Easton replaced Jonathan Buckley with effect from 2 November 2020

Executive Summary

1. This report sets out the Committee for Communities' consideration of the Pension Schemes Bill.

2. The Pension Schemes Bill consists of 45 clauses and aims to build on reforms such as automatic enrolment in workplace pensions. Since completion of the roll-out of automatic enrolment in 2018, 10.2 million people are newly saving or saving more for their retirement. The Bill seeks to ensure that savers are appropriately protected, regardless of the sort of pension scheme they are saving in, by increasing the regulation of Master Trusts.

3. In addition to the main clauses of the Bill, the Committee considered a range of proposed amendments brought forward by the Department. The proposed amendments covered a range of new policy proposals relating to the main aims of the Bill. They also included a number of minor drafting amendments.

4. The Committee requested evidence from interested organisations as well as the Department of Communities as part of its deliberations on the Bill and the proposed amendments.

5. Three written submissions were received and the Committee held two oral evidence sessions with interested organisations as well as exploring the issues raised in the written and oral evidence with Department of Communities officials both in writing and in oral briefings. The Committee considered the provisions of the Bill and the proposed amendments at 8 meetings.

Key Issues Relating to the Clauses in the Bill

6. At its meeting on 5 November 2020 the Committee undertook its formal Clause by Clause consideration and agreed the Clauses in the Bill as drafted.

7. The Committee was content to agree the clauses as drafted as Members were reassured by the responses to its queries. One of the key issues this Bill addresses is in relation to the master trusts. With a huge increase in the numbers of members of master trusts, around 100,000 in Northern Ireland alone, Members wanted to be sure that the trusts are properly regulated. The Department advised that if there was a scheme in Northern Ireland that falls under the master trust, the Pensions Regulator could not go into their premises and take documents if they had suspicions into how that master trust was administering its pension funds. This is simply because Northern Ireland does not have the law at the moment to allow them to enter the premises. However, as soon as the Bill is passed, the officials stated that they could not think of any area where Northern Ireland would differ.

8. Another key issue for Members was the protections that will be put in place for people's pensions and whether the government will build in protection as Members felt that it is not outside the realms of possibility that a master trust could collapse. Whilst members of master trusts would not have access to the Pension Protection Fund, there is a safety net in the event of fraud. If, for example, the master trust scheme ends up being underfunded because of fraud and there is no scheme funder etc. to get the money from, there will be a fall-back scenario.

9. Members were also reassured to hear that The Pensions Regulator has a role in regulating cross-border schemes – schemes that operate, in this case, in Northern Ireland and the Republic of Ireland and the Regulator has the powers to intervene.

Introduction

1. The Pension Schemes Bill (NIA Bill 07/17-22) was referred to the Committee in accordance with Standing Order 33 on completion of the Second Stage of the Bill on 7 July 2020.
2. The Minister for Communities made the following statement under section 9 of the Northern Ireland Act 1998: “In my view the Pension Schemes Bill would be within the legislative competence of the Northern Ireland Assembly.”
3. The stated purpose of the Bill is to build on reforms such as automatic enrolment in workplace pensions. Since completion of the roll-out of automatic enrolment in 2018, 10.2 million people are newly saving or saving more for their retirement. This Bill seeks to ensure that savers are appropriately protected, regardless of the sort of pension scheme they are saving in, by increasing the regulation of Master Trusts.
4. During the period covered by this Report, the Committee considered the Bill and related issues at 8 meetings. The relevant extracts from the Minutes of Proceedings for these meetings are included at Appendix 1. Also included in this Appendix are the Minutes of Proceedings highlighting the discussions the Committee undertook prior to introduction.
5. The Committee had before it the Pension Schemes Bill (NIA 07/17-22) and the Explanatory and Financial Memorandum that accompanied the Bill. Following the introduction of the Bill on 23 June 2020, the Committee wrote to key stakeholders and inserted public notices in the Belfast Telegraph, Irish News, and News Letter seeking written evidence on the Bill by 12.00 p.m. on 09 September 2020.
6. A total of 3 organisations responded to the request for written evidence and a copy of the submissions received are included at Appendix 3.
7. The Committee commissioned the Northern Ireland Assembly Research and Information Service to provide research on the content and implications of the proposed Bill. These papers are included at Appendix 5.
8. After the Bill completed its Second Stage on 7 July 2020, the Committee arranged to take oral evidence on the Bill from relevant stakeholders and the Department. These sessions took place on 16, 23 and 30 September as well as 8 October 2020. The Committee heard from the following bodies:

   - NI Assembly Research and Information Service
   - Workers Pension Trust
   - The Pensions Regulator
9. The Committee also had discussions with Department officials on the key issues of the Bill at its meetings on 12 June 2020 and 23 September 2020. Committee deliberations on the clauses and formal clause by clause scrutiny of the Bill were completed at the meetings on 22 October

and 5 November 2020. The relevant Minutes of Evidence of these meeting are included at Appendix 2.

10. The Committee considered its draft report at its meeting on 19 November 2020. The Committee agreed its report on the Bill and ordered that it should be printed.

Committee Consideration of the Bill

Background

11. The Pension Schemes Bill, as introduced, contains 45 clauses and 3 schedules. The Bill makes provision for Northern Ireland corresponding to provisions of the Pension Schemes Act 2017 which was passed by the Westminster Parliament.

12. The Pension Schemes Bill aims to build on reforms such as automatic enrolment in workplace pensions. Since completion of the roll-out of automatic enrolment in 2018, 10.2 million people are newly saving or saving more for their retirement. The Bill seeks to ensure that savers are appropriately protected, regardless of the sort of pension scheme they are saving in, by increasing the regulation of Master Trusts.

13. Following the coming into force of the pension freedoms in April 2015, many members of pension schemes aged 55 and over were able to access their retirement savings more flexibly. The Westminster Government sought to protect these people from excessive exit charges through the Bank of England and Financial Services Act 2016, which gave the Financial Conduct Authority powers in this respect from April 2017. The Bill seeks to provide members of occupational pension schemes with a level of protection equivalent to that of members of personal pension schemes.

14. The Committee was briefed by Assembly Research and Information Service (RaISe) at its meeting on 16 September 2020. Members were informed that the Bill is perceived to be very important legislation for a number of reasons. First, it will protect the pensions interests of some of the lowest-paid employees in Great Britain and Northern Ireland. Secondly, master trusts are very important vehicles for small employers and microemployers to meet their automatic enrolment obligations. Thirdly, master trusts are a multibillion-pound, not multimillion pound, section of the pensions industry.

15 Members were also informed that the Bill confers a number of important powers on the Pensions Regulator, which is already exercising those powers in respect of trusts covered by the Westminster Act. For example, it can refuse to issue authorisation, and there is an appeals mechanism associated with that; it can withdraw authorisation; and it can, under certain circumstances, order trusts to pause certain activities, such as accepting new members onto the scheme. It provides the regulator with a suite of enforcement tools, such as allowing it to impose civil penalties and to issue fixed and escalating penalty notices if a trust refuses or neglects to provide certain information.

16. The Assembly Researcher stated that perhaps one of the most central parts of the legislation is the placing of a duty on a range of people involved in a trust to notify the regulator that a triggering or significant

event has occurred. There are also provisions in the Bill that provide the regulator with ongoing supervisory powers so that the regulator can monitor the activities of trusts on an ongoing basis.

17. The Committee asked the researcher if her research had found issues in those jurisdictions that member should be concerned about as they start to consider the Bill. The researcher advised that nothing had jumped out from the information that was coming from the devolved Parliaments or Committees.

18. Members also asked about the civil penalties that the Pensions Regulator can impose as well as fixed and escalating penalty notices and were advised that the escalating penalty notice and the fixed penalty notice will be in subordinate legislation. Members were also informed that these fines could have an implication for those who have their pension with a master trust.

19. The Committee also enquired of the researcher as to why a number of master trusts across the UK seemed to be exiting the market. They were informed that a lot of smaller master trusts are exiting the market for a number of reasons, one of which is that they may not have the infrastructure to cope with such a rigorous authorisation process.

20. The Committee was then briefed by Departmental officials at its meeting on 30 September 2020.

21. The officials informed the Committee that master trusts have become a popular vehicle for employers, particularly small and micro employers, who are seeking to enrol employees into an occupational pension scheme. They further explained that a master trust is a form of multi-employer occupational pension scheme for unconnected employers where, instead of the employer setting up their own pension scheme, the scheme is provided by an external organisation that runs a pension scheme for numerous employers.

22. The officials advised that such schemes offer benefits to both employers and members. They can spur competition in the market and allow for economies of scale, providing value for money. They are also an efficient solution for small employers for whom setting up an individual pension scheme would be difficult and prohibitively expensive.

23. The Departmental officials advised members that currently, in Northern Ireland law, master trusts are regulated in accordance with occupational pension legislation. However, that legislation was developed with single-employer pension schemes in mind and, consequently, does not take into consideration the different structures and dynamics of master trusts, which give rise to different risks. The Pension Schemes Bill is a response not to a fundamental problem with master trusts, but rather to the exponential growth in membership.

24. Members were informed that in 2010, across the UK there were 200,000 members of master trusts. By November 2019, there were 16 million members across the UK in 37 master trust schemes, holding more than £36 billion in assets. The introduction of a new authorisation regime is designed to address a legislative gap and to try to prevent problems arising in the future. The aim is to ensure that essential protections are put in place in a way that is proportionate to the risks that are experienced by master trusts.

25. The officials explained that the Pension Schemes Bill defines a master trust as an occupational pension scheme that offers money purchase benefits, either alone or in conjunction with other benefits, to be used by two or more employers who are not connected to each other. In broad terms, money purchase benefits are derived from a pot of contributions, together with investment returns from the contributions. Where a scheme offers a combination of money purchase and other benefits, the requirements generally only apply to the extent that it provides money purchase benefits. The definition is broad, which is designed to discourage schemes from changing their structure to avoid having to seek authorisation.

26. Under the Bill, the Pensions Regulator is being given new powers to supervise master trusts, enabling it to intervene where schemes are at risk of falling below the required standards. The aim is to ensure that the regulator is satisfied that the master trust continues, on an ongoing basis, to meet the authorisation criteria and other obligations, including relevant legislation and codes of practice. To facilitate this, master trusts will be required to submit annual accounts and supervisory returns, and to notify the regulator of significant events. The scheme funder will also be required to submit annual accounts. The submission of annual accounts to the regulator is necessary for the regulator's ongoing financial supervision of the scheme. It also enables the regulator to risk-assess the solvency of the scheme funder and the funder's ability to provide funds to the master trust.

27. Similarly, the supervisory return, which is to be submitted to the regulator on request, is an important tool for the regulator to be able to assess, on an ongoing basis, the master trust against the authorisation criteria. It is intended that the regulator may require information to be included in the supervisory returns, such as how the trustee's competence is being maintained, details of the professional development of the scheme's strategist, the scheme's position in relation to the objectives set out in the business plan etc.

28. As well as explaining the benefits of master trusts and the tighter controls around them that the Bill would introduce, the officials explained that Part 2 of the Bill covers administration charges. Since the introduction of the new pension freedoms in April 2015, which enabled many people aged 55 and over to access their pension savings more

flexibly, individuals faced a range of potential barriers, including incurring early exit charges, when seeking to access their savings. Schedule 18 to the Pensions Act (Northern Ireland) 2015 allows the Department to make regulations that restrict the charges or impose requirements on certain pension schemes. This Bill amends the 2015 Act to allow the Department to make regulations to provide that any term in a contract which is inconsistent with something in the regulations made under schedule 18 is overridden.

29. The officials concluded by saying that, by most standards, automatic enrolment can be considered a success. The Bill aims to ensure that members are only enrolled in high-quality schemes which look after their interests. Well-managed schemes will help to secure pension incomes in retirement. The Bill, therefore, is firmly centred on further safeguarding workers' pensions.

30. The Committee asked the officials if they were aware of the number of people in Northern Ireland that are members of master trusts and how it was possible that the Workers Pension Trust became the first in Northern Ireland to be awarded master trust by the regulator without the legislation being in place. The officials informed members that the Workers Pension Trust has members in Northern Ireland but also in England, Scotland and Wales. Therefore, for it to be able to have members in England, Scotland and Wales, it had to be authorised under the law in England, Scotland and Wales. In terms of the number of people in Northern Ireland that are members of master trusts, the Departmental officials estimated there are around 100,000.

31. The Committee asked the officials about the Pensions Regulator's role in Northern Ireland and whether there is a legislative piece that can be reviewed, in advance of the work that the Committee will be doing, on how they can control master trusts in Northern Ireland. The Department advised that, once this Bill has been brought in, the role of the Pensions Regulator should be the same in England, Scotland, Wales and Northern Ireland; there should be no difference. The only difference in Northern Ireland at the moment is that there are some things that the Pensions Regulator is not able to do here.

32. The Department used the example that if there was a scheme in Northern Ireland that falls under the master trust, the Pensions Regulator could not go into their premises and take documents if they had suspicions into how that master trust was administering its pension funds. This is simply because Northern Ireland does not have the law at the moment to allow them to enter the premises. However, as soon as the Bill is passed, the officials stated that they could not think of any area where Northern Ireland would differ.

33. Members asked the officials if there was built-in pensions advice from the trusts as the Committee was concerned that, with recent changes to

how pensions can be accessed, individuals are maybe not getting enough independent advice.

34. The officials informed the Committee that, generally, in pensions law, if your pot is over a certain amount, you are required to take independent advice. They also stated that if an individual is moving money from a pension scheme, the scheme has to make sure that that money is not going into a scam; or, at least, they have to ask the member whether they have taken advice on that point.

35. Members also questioned the officials on the protections that will be put in place for people's pensions and whether the government will build in protection as members felt that it is not outside the realms of possibility that a master trust could collapse. The officials informed the Committee that members of master trusts would not have access to the Pension Protection Fund. However, there is a safety net in the event of fraud. If, for example, the master trust scheme ends up being underfunded because of fraud and there is no scheme funder etc. to get the money from, there will be a fall-back scenario.

36. The final point that members questioned the officials on was whether the Bill allows the Government to place additional criteria on master trusts such as if the Government, in future, were to introduce a zero emissions policy and wanted master trusts not to invest carbon-emitting companies. The officials advised that there is nothing in the Pension Schemes Bill that deals with climate change but that his was dealt with in other pensions legislation.

37. The Committee was briefed by the Workers Pension Trust at its meeting on 30 September 2020. The representatives informed the Committee that it is the only master trust pension scheme that has been set up and operated from a base in Northern Ireland. Whilst the scheme is based in Belfast, it is open to businesses across the UK. The Trust has enrolled over 100,000 members into the scheme across 5,000 employers which span all sectors of industry and commerce.

38. The Workers Pension Trust informed members that a master trust authorisation regime is key to ensuring the high standards of governance and controls across master trusts. Since the introduction of the authorisation in GB, the market has shrunk from 90 master trusts to just 38 which, in their view, highlighted the rigour of the regime.

39. The Workers Pension Trust stated that they found the authorisation process under the GB legislation to be comprehensive and beneficial for them. In their view, it has meant that their existing members, as well those who are considering using their service, can be confident that they comply with the highest standards of governance and administration. The representatives stated that their organisation has sufficient

safeguards in place and that their master trust is run by fit and proper people, with the right systems, processes, plans and finances in place.

40. In the Workers Pension Trust's view, it is vital that the Pension Schemes Bill is aligned to the Pension Schemes Act 2017 in order to allow for consistency across the UK master trust industry. The representatives stated that they believed that the current wording of the Bill is appropriately aligned to the 2017 Act and, therefore, they would not suggest any alternative wording to the clauses of the Bill.

41. The representatives noted that the Bill gives the Department the powers to make regulations relating to additional information or application fees, but requested that any additional requirements made by the Department reflect those in the Occupational Pension Schemes (Master Trusts) Regulations 2018 to allow for consistency across the UK master trust industry.

42. In conclusion, the Workers Pension Trust were of the opinion that the Pension Schemes Bill, as it stands, is appropriate and they would not suggest any changes to it. The organisation believed that authorisation of master trusts has been successful in GB and that the Pension Schemes Bill should allow for similar success in Northern Ireland by ensuring that members can benefit from the highest quality protection that schemes can offer.

43. The Committee was pleased to hear that the Workers Pension Trust appeared to be content with the Bill as it was drafted and that any changes would need to meet certain requirements.

44. The Committee asked the representatives about climate-related financial disclosures and whether that caused difficulties or cost for the Workers Pension Trust.

45. The representatives stated that they were working with their investment consultants to see how they can put in place appropriate governance and take account of the legislation that dealt with this issue. Up until this point, it had not caused significant additional cost but it was more about the investment of time – making sure that the investment managers are acting appropriately.

46. The Committee also asked the Workers Pension Trust about whether there had been any discussions about penalties or sanctions raised against master trusts where there is an element of non-compliance.

47. The representatives said that they believe that there had been discussions around and it is something that will come in the future, but not at this point.

48. At its meeting on 8 October 2020, the Committee was briefed by The Pensions Regulator.

49. The representatives informed the Committee that The Pensions Regulator is the regulator of workplace pensions throughout the UK and that the organisation has statutory objectives, which include measures to improve the way in which workplace pension schemes are run and the protection of savings of those who are saving into them.

50. The Pensions Regulator representatives then explained to members that a master trust is a trust-based occupational pension scheme, which provides money purchase benefits and is used by two or more unconnected employers. The representatives informed members that master trusts have existed for many years but that they came to prominence with the start of automatic enrolment in 2012, when they became the type of scheme most commonly chosen by employers to fulfil their duties.

51. The representatives further informed Members that master trusts often differ from other pension schemes because they are commercial or commercially minded organisations. This means that those who run the scheme are more distant from the participating employers and their employees than would be the case in a conventional employer scheme. That distance can lead to a focus on good governance, from members' experience. However, in the early days of automatic enrolment, some master trusts gave the Regulator cause for concern. These included trusts that were run by people with little or no experience, and, literally, from a spare room. The growth of potentially low-quality master trusts concerned the Regulator and their regulatory group was insufficient to deal with some of the risks that they had identified in the market.

52. Members were informed that The Pension Schemes Act 2017, which the Assembly Pension Schemes Bill replicates, was designed to close these gaps. It also required, for the first time, direct authorisation of trust-based pension schemes.

53. The process of authorisation involves a scheme demonstrating that it can meet the tough standards set out in legislation. Those include having the right people, robust processes and adequate finances to better protect savers in their scheme.

54. The Regulator informed the Committee that it maintains a supervisory relationship with all authorised master trusts. New schemes planning to enter the market must gain its authorisation before starting to operate. To do this, they must provide evidence outlining how a scheme will meet the standards in the five key areas.

55. Members were pleased to hear that new schemes are more intensely supervised because they do not have an operational track record. This

gives them the opportunity to demonstrate that they continue to meet the authorisation criteria.

56. The Committee was also pleased to note that, once authorised, the Regulator has powers to drive improvements in schemes where it sees signs of concern. If a scheme is ultimately unable to satisfy the Regulator that it meets the required standards, it may take action to de-authorise it.

57. The Regulator stated that its primary concern throughout authorisation and supervision is to ensure that members' pension pots are protected, a point that was very much welcomed by Members. The representatives went on to state that de-authorisation is one of several so-called triggering events that a scheme may suffer. These range from de-authorisation by the Regulator to changes that affect the financial security or sustainability of a scheme.

58. After a triggering event, master trusts are automatically prohibited from taking on any new employers. They are also prohibited from introducing new charges or increasing charges on members beyond those already in place. The ban on additional charges extends to schemes taking on members from exiting schemes. The representatives informed Members that the Regulator monitors the market closely to make sure that schemes are following the rules. The Committee was pleased to hear that the supervision of master trusts is rigorous and that The Pensions Regulator pays close attention to them to ensure members’ pension pots are safe.

59. The representatives from the Pensions Regulator informed Members that, when the Regulator has concerns, it works with the trustees of the transferring scheme in order to resolve them. However, when needed, the Regulator has a range of powers that it may use. When a master trust is winding up, for example, The Regulator can use a pause order to put a temporary stop on a range of activities, from payments being made out of the master trust to preventing further moneys from flowing in. These powers would be used only when there was an immediate risk to members or scheme assets.

60. Members heard from the representatives from the Regulator that the authorisation process was carried out to safeguard savers in the increasingly important schemes and to drive up standards in the market. It has improved standards and governance for 60 million individuals saving into those schemes and the Committee was very pleased to hear that safeguarding savers was at the heart of the work of the Pensions Regulator.

61. The Pensions Regulator representatives concluded their briefing session by telling the Committee that they expect the master trust market to continue to grow in terms of the number of members and in assets.

Many employers are now moving their money purchase schemes to master trusts, so the representatives expected that trend to continue. There is currently one master trust in Northern Ireland and the representatives informed the Committee that the Bill it was considering closes off the loophole for a master trust to operate exclusively in Northern Ireland without authorisation and also means that savers in Northern Ireland will be protected in the same way and to the same degree as those throughout the UK, a point that Members welcomed.

62. The Committee asked that representatives from the Pensions Regulator if the introduction of this Bill would lead to an added workload and expense for the Pensions Regulator

63. The representative informed that Committee that, as a regulator, it has broadly moved towards a more supervisory model and had looked at the resources that would be needed to supervise master trusts. While The Pensions Regulator looks at all master trusts, it has different levels of supervision and the ones that it would be more concerned about – those that are new to the market – will get much more regular contact than the ones with which The Pensions Regulator is happy and where not a lot of new activity or exits are happening.

64. Having been informed by The Pensions Regulator that, in the past, master trusts had been set up in people's front rooms, Members asked if there were there still concerns, or if the Regulator was relatively happy on how the legislation will protect savings.

65. The representatives stated that they were particularly pleased by the way in which schemes that fall under the legislation have shifted to comply with it. They thought that there would be far more pushback and, potentially, more issues with the problematic schemes that had been identified. However, as it stands the Regulator had no problems, and everyone has behaved sensibly and reasonably in doing what they are supposed to do.

66. Members asked the representatives if a pension is provided by a company that is not even located in the UK, can The Pensions Regulator provide any protections for people saving with that pensions company, or if that is monitored elsewhere.

67. The representatives informed Members that, broadly speaking, this is monitored elsewhere. The Pensions Regulator has a role in regulating cross-border schemes – schemes that operate, in this case, in Northern Ireland and the Republic of Ireland and the Regulator has the powers to intervene.

68. The Committee then asked if a company has to provide any documentation to employees to notify them that their scheme is outside the regulation of The Pensions Regulator in the UK.

69. The representatives informed Members that there is no requirement for this. However, schemes that operate in the UK have to be established in the UK for tax purposes. Once they are set up for tax purposes and established, they have to register with the Regulator as a pension scheme, and at that point the UK entity of that employer comes under its remit. While there may be a headquarters in Paris, for example, the UK subsidiary would be under the regulation of The Pensions Regulator. The Committee was reassured to hear this and was also reassured to hear that there have been instances in which The Pensions Regulator has pursued parent companies across borders.

Committee Deliberations on the Clauses of the Bill

70. The Committee commenced its deliberations on the clauses of the Bill at its meeting on 22 October 2020. The Committee indicated that it was content with all of the clauses but did raise queries about Clauses 4 and 7 in relation to the provision of scheme accounts (clause 4(2)(a)) and the meaning of connected persons (clause 7(4)(b)).

71. The Department provided the Committee with a reply on these issues which was considered at the meeting on 5 November 2020. The reply stated that Under clause 3, a person cannot operate a Master Trust without authorisation. Clause 4(2) sets out documents which the trustees must include with an application for authorisation. These include the latest scheme accounts (clause 4(2)(a)). Where there is an existing pension scheme which wishes to become a Master Trust, the Regulator would require the latest annual accounts for that existing scheme. Where there is no existing scheme, the Regulator will focus on the financial backing for the scheme (the scheme funder) to ensure that it is satisfied as to the financial sustainability of the scheme. Once a scheme is authorised, there is an ongoing duty on both the scheme and scheme funder to submit their annual accounts to the Regulator to enable the Regulator to be satisfied that the scheme remains financially sustainable (clause 14).

72. In relation to the query on connected persons, the Departmental reply stated that, under clause 7, the Regulator must decide if key persons in the scheme are fit and proper to act in their roles. In assessing whether a person is a fit and proper person to act in a particular capacity, the Regulator may take into account matters relating to persons connected with that person.

The reply further stated that a person is connected to another person if –

(a) they are an “associate” of the other person;

(b) where the other person is a company, they are a director or shadow director of that company (or an associate of a director or shadow director of that company);

(c) in the case of a trustee, the other person is a beneficiary (or an associate of a beneficiary) of the trust, or the trustee could exercise a power for the benefit of that person (or an associate of that person). The term “associate” holds the same meaning as in the Insolvency (NI) Order 1989. It includes a husband, wife or civil partner or a relative (a sibling, aunt, uncle, nephew, niece, lineal ancestor or lineal descendant).

73. The Committee was content with the explanation provided in the reply.

Clause by Clause Consideration of the Bill

74. Having considered the written and oral evidence received on the Bill, the Committee undertook its formal Clause-by-Clause consideration at its meeting on 5 November 2020 – see Minutes of Proceedings in Appendix 1 and Minutes of Evidence in Appendix 2.

75. Information on the Committee's deliberations on the individual Clauses in the Bill and additional provisions can be found in the previous section of this report.

Clause 1 - Master Trust schemes: definition

76. Agreed: the Committee is content with Clause 1 as drafted.

Clause 2: Relevant public service pension schemes

77. Agreed: the Committee is content with Clause 2 as drafted.

Clause 3: Prohibition on operating a scheme unless authorised

78. Agreed: the Committee is content with Clause 3 as drafted.

Clause 4: Application for authorisation

79. Agreed: the Committee is content with Clause 4 as drafted.

Clause 5: Decision on application

80. Agreed: the Committee is content with Clause 5 as drafted.

Clause 6: Referral to Tribunal of refusal to grant authorisation

81. Agreed: the Committee is content with Clause 6 as drafted.

Clause 7: Fit and proper persons requirement

82. Agreed: the Committee is content with Clause 7 as drafted.

Clause 8: Financial sustainability requirement

83. Agreed: the Committee is content with Clause 8 as drafted.

Clause 9: Financial sustainability requirement: business plan

84. Agreed: the Committee is content with Clause 9 as drafted.

Clause 10: Scheme funder requirements

85. Agreed: the Committee is content with Clause 10 as drafted.

Clause 11: Systems and processes requirements

86. Agreed: the Committee is content with Clause 11 as drafted.

Clause 12: Continuity strategy requirement

87. Agreed: the Committee is content with Clause 12 as drafted.

Clause 13: List of authorised schemes

88. Agreed: the Committee is content with Clause 13 as drafted.

Clause 14: Requirement to submit annual accounts

89. Agreed: the Committee is content with Clause 14 as drafted.

Clause 15: Requirement to submit supervisory return

90. Agreed: the Committee is content with Clause 15 as drafted.

Clause 16: Duty to notify Regulator of significant events

91. Agreed: the Committee is content with Clause 16 as drafted.

Clause 17: Fixed penalty notice for failure to comply with request for information

92. Agreed: the Committee is content with Clause 17 as drafted.

Clause 18: Escalating penalty notice for failure to comply with request for information

93. Agreed: the Committee is content with Clause 18 as drafted.

Clause 19: Withdrawal of authorisation

94. Agreed: the Committee is content with Clause 19 as drafted.

Clause 20: Triggering event: duties of trustees

95. Agreed: the Committee is content with Clause 20 as drafted.

Clause 21: Triggering events

96. Agreed: the Committee is content with Clause 21 as drafted.

Clause 22: Notification requirements

97. Agreed: the Committee is content with Clause 22 as drafted.

Clause 23: Continuity options

98. Agreed: the Committee is content with Clause 23 as drafted.

Clause 24: Continuity option 1: transfer out and winding up

99. Agreed: the Committee is content with Clause 24 as drafted.

Clause 25: Continuity option 2: resolving triggering event

100. Agreed: the Committee is content with Clause 25 as drafted.

Clause 26: Approval of implementation strategy

101. Agreed: the Committee is content with Clause 26 as drafted.

Clause 27: Content of implementation strategy

102. Agreed: the Committee is content with Clause 27 as drafted.

Clause 28: Duty to pursue continuity option

103. Agreed: the Committee is content with Clause 28 as drafted.

Clause 29: Prohibition on winding up except in accordance with continuity option 1

104. Agreed: the Committee is content with Clause 29 as drafted.

Clause 30: Periodic reporting requirement

105. Agreed: the Committee is content with Clause 30 as drafted.

Clause 31 and Schedule 1: Pause orders

106. Agreed: the Committee is content with Clause 31 as drafted.

Clause 32: Prohibition on new employers during triggering event period

107. Agreed: the Committee is content with Clause 32 as drafted.

Clause 33: Prohibition on increasing charges etc. during triggering event period

108. Agreed: the Committee is content with Clause 33 as drafted.

Clause 34: When it becomes clear that authorisation not to be withdrawn

109. Agreed: the Committee is content with Clause 34 as drafted.

Clause 35: When a decision to withdraw authorisation becomes final

110. Agreed: the Committee is content with Clause 35 as drafted.

Clause 36: Fraud compensation

111. Agreed: the Committee is content with Clause 36 as drafted.

Clause 37 and Schedule 2: Master trusts in operation on commencement: transitional provision

112. Agreed: the Committee is content with Clause 37 as drafted.

Clause 38 and Schedule 3: Minor and consequential amendments

113. Agreed: the Committee is content with Clause 38 as drafted.

Clause 39: Interpretation of Part 1

114. Agreed: the Committee is content with Clause 39 as drafted.

Clause 40: Regulations modifying application of Part 1

115. Agreed: the Committee is content with Clause 40 as drafted.

Clause 41: Power to override contract terms

116. Agreed: the Committee is content with Clause 41 as drafted.

Clause 42: Regulations: general provisions

117. Agreed: the Committee is content with Clause 42 as drafted.

Clause 43: General interpretation

118. Agreed: the Committee is content with Clause 43 as drafted.

Clause 44: Commencement

119. Agreed: the Committee is content with Clause 44 as drafted.

Clause 45: Short title

120. Agreed: the Committee is content with Clause 45 as drafted.

Appendix 1 – Minutes of Proceedings

Appendix 2 – Minutes of Evidence

Appendix 3 – Written submissions

Appendix 4 – Memoranda and Papers from the Department for Communities

Appendix 5 – Research Papers

Appendix 1 – Links to Minutes of Proceedings

Date
17 June 2020
9 September 2020
16 September 2020
23 September 2020
30 September 2020
8 October 2020
22 October 2020
5 November 2020
19 November 2020

Appendix 2 – Links to Minutes of Evidence

Date	*Minutes of Evidence*
17 June 2020	*Oral Evidence session with the Department for Communities*
16 September 2020	*Briefing Session with Northern Ireland Assembly Research and Information Service.*
23 September 2020	*Oral Evidence session with the Department for Communities*
30 September 2020	*Oral Evidence session with the Workers Pension Trust*
8 October 2020	*Oral Evidence Session with the Pensions Regulator*
22 October 2020	*Committee Deliberations*
5 November 2020	*Clause by clause consideration*

Appendix 3 – Written Submissions

Links to Written Submissions Received	
1	*Commissioner for Older People*
2	*NI Human Rights Commission*
Links to Anonymised Submissions	
3	*Anonymised Submission 1*

Appendix 4 – Memoranda and papers from the Department for Communities

List of Links to Memoranda and papers from the Department for Communities

Date	*Correspondence*
23 September 2020	*Departmental Briefing Paper on the Pension Schemes Bill*
23 October 2020	*Departmental response to Committee queries re Master Trusts*
30 September	*Pension Schemes Bill 2020 - Delegated Powers Memorandum*
2 November 2020	*Departmental clarification re Scheme Accounts*

Appendix 5 – Research Papers

List of Links to RaISe papers considered

Date	Research Paper
7 July 2020	*RaISe paper on Pension Schemes Bill*

Glossary

This glossary lists and aims to provide explanations for some of the terms used in the Pension Schemes Bill.

Term	Meaning
Annuity[1]	An annuity is where the money in the pension pot is used to buy a regular income. Annuities can be flat-rate, increased in line with inflation or by a set amount, be guaranteed for a set time and/or joint-life.
Average salary scheme[2]	A Defined Benefit scheme that gives individuals a pension based on a percentage of the salary earned in each year of their employment (rather than the final year).
Collective money purchase scheme (CMPS)[3]	This is the legislative term for a type of pension scheme commonly known as a collective defined contribution pension scheme. In a CMPS, members make defined contributions to the scheme. 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.
Deemed consent	Where the member's consent to a change to their rights in a scheme or a transfer to a less generous scheme is treated as having been given unless the member specifically objects.
Defined benefit schemes[4]	In these 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

[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693655/protecting-defined-benefit-pension-schemes.pdf

[2] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693655/protecting-defined-benefit-pension-schemes.pdf

[3] https://researchbriefings.files.parliament.uk/documents/LLN-2019-0140/LLN-2019-0140.pdf

[4] https://researchbriefings.files.parliament.uk/documents/LLN-2019-0140/LLN-2019-0140.pdf

	additional contributions. Many employers have closed their defined benefit pension schemes to new entrants.
Defined contribution schemes[5]	In these schemes, individuals and employers contribute to an individual's savings 'pot' within a pension scheme. 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.
Employer Covenant[6]	Ability and willingness of the employer to support the scheme.
The "employer insolvency test"	Broadly, this will be met if TPR considers that at the time of an act or failure to act a scheme was in deficit and, had a section 75 debt fallen due, this act or failure to act "would have materially reduced the amount of the debt likely to be recovered".
The "employer resources test"	This will be met if TPR considers an act or failure to act "reduced the value of the resources of the employer" and that reduction was material relative to the amount of the estimated section 75 debt in relation to the scheme.
Money purchase schemes[7]	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[8]	This 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.
Notifiable events framework[9]	A duty on the trustees of schemes and their sponsoring employers to notify the Pensions

[5] https://researchbriefings.files.parliament.uk/documents/LLN-2019-0140/LLN-2019-0140.pdf

[6] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693655/protecting-defined-benefit-pension-schemes.pdf

[7] https://researchbriefings.files.parliament.uk/documents/LLN-2019-0140/LLN-2019-0140.pdf

[8] https://researchbriefings.files.parliament.uk/documents/LLN-2019-0140/LLN-2019-0140.pdf

[9] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693655/protecting-defined-benefit-pension-schemes.pdf

	Regulator when certain events, as set out in regulations, occur.
Pensions dashboard[10]	A pensions dashboard is a consumer-friendly digital interface that displays information about all of an individual's pensions savings in one place.
The Pensions Regulator (TPR)	The Pensions Regulator is the UK regulator of workplace pension schemes.

[10] https://researchbriefings.files.parliament.uk/documents/LLN-2019-0140/LLN-2019-0140.pdf