Northern Ireland Assembly

Committee for Communities

Report on a further Legislative Consent Memorandum on the Westminster Pension Schemes Bill

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Powers and Membership

Powers

1. 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.

2. 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

3. The Committee has nine 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
Jonathan Buckley MLA
Mark Durkan MLA
Sinéad Ennis MLA
Fra McCann MLA
Robin Newton MBE MLA
Carál Ní Chuilín MLA

Background

4. Pensions is a devolved matter but policy and legislation have acted in accordance with Section 87 of the NI Act 1998 to ensure pension provision corresponds to that in England, Scotland and Wales: Consultation and Co-ordination (1)The Secretary of State and the Northern Ireland Minister having responsibility for social security ("the Northern Ireland Minister") shall from time to time consult one another with a view to securing that, to the extent agreed between them, the legislation to which this section applies provides single systems of social security, child support and pensions for the United Kingdom.

5. The Pension Schemes Bill [HL] 2019/20 announced in the Queen's Speech on 19 December 2019, was introduced to the House of Lords on 7 January 2020.

6. The Government stated that the main benefits of the Bill would be:

   - The creation of a new pension scheme which would give greater choice for employers and ensure that people can better save for their retirement and be able to better predict their income in later life;

   - Enhancement of The Pensions Regulator's powers so it can respond earlier when employers act irresponsibly with their organisation's pension fund. This includes significant sanctions such as large fines and jail terms. This aims to build greater trust for saving in pensions; and

   - To build greater transparency into the pensions system by developing pensions 'dashboards' which will provide all of an individual's pension information in one place.

7. The Department of Work and Pensions (DWP) has consulted publicly on two occasions which have informed the Bill: Delivering collective defined contribution pension schemes and Protecting defined benefit pension schemes – a stronger Pensions Regulator.

8. The NI Assembly Committee for Communities published a report on the first Legislative Consent Memorandum on the Bill [NIA 19/17-22]. In summary, Members were reassured that the Department would brief the Committee on any significant policy change to the Bill as a result of amendment at Westminster and recognised that the Bill had been broadly welcomed by unions, the pensions industry, and political parties.

9. The Committee also recognised that central to the Bill is the principle of consumer protection and enabling people to plan better for their pensions. Members accepted it is advantageous that any changes to the regulation

of pensions as a result of legislation is made across all jurisdictions at the same time to ensure compliance and enforcement.

10. The Committee welcomed that the power to make subordinate legislation on the Bill will rest with the Department for Communities and the powers of control over the subordinate legislation will rest within the Assembly.

11. The Committee acknowledged that the Bill will strengthen the pensions system by introducing certain safeguards and enhanced sanctions and was supportive of the Legislative Consent Motion (LCM) which endorses the principle of extension of the principles of the Pensions Schemes Bill, as introduced in the House of Lords, to Northern Ireland.

12. The Department wrote to the Committee on 22 September 2020 to advise that, subject to Executive approval, it intended to seek support for a second Legislative Consent Memorandum to enable the amendments relating to devolved matters made to the Bill since its introduction in the House of Lords, to remain in the Bill.

13. The Department's letter to the Committee stated that, during House of Lords Committee stage, an amendment covering Climate-related financial disclosures introduced a new policy area to the Bill which will secure effective governance and disclosure of the risks facing schemes (with the long-term objective of protecting members' benefits against the physical risks of climate change) and of the risks and opportunities associated with the transition to a lower-carbon economy.

14. This amendment requires trustees and managers of prescribed occupational pension schemes to assess their climate risk management and publish information about the exposure of scheme assets to climate risk, in line with the recommendations of the Taskforce on Climate-related Financial Disclosures. A further amendment was made at Lords Report Stage to provide clarity as to the requirements which may be placed on schemes, referring more specifically to obligations under the Paris Agreement, an agreement within the United Nations Framework Convention on Climate Change.

15. The Department stated that the amendments will secure effective governance and disclosure of the climate change risk that schemes face. This will allow the government to mandate the recommendations of the international Taskforce on Climate-related Financial Disclosures.

16. The Department further stated that climate change is expected to have a significant impact on pension schemes' assets and returns for savers, both through the risks of a warmer planet and the transition to a lower carbon economy. These measures will ensure pension schemes are in a good position to play a role in the change to a sustainable, low-carbon economy.

17. The effect on private pensions policy is to strengthen the requirements placed on trustees and managers of occupational pension schemes to include proper climate risk management within their governance processes, and publish that information so that it is available to all. This builds on the expectation that occupational pension schemes and other large asset owners disclose in line with the Taskforce on Climate-related Financial Disclosures' recommendations, as set out in the 2019 Green Finance Strategy.

18. The Climate-related Financial Disclosures amendments cover three areas: governance requirements, publication requirements and powers of the Regulator in cases of non-compliance. The amendments also require schemes to have regard to government guidance on complying with both effective governance requirements and publication requirements. These amendments build on regulations which are already in place, that require occupational pension schemes to take account of climate change in their investment practices. Occupational pension schemes with 100 or more members are currently required to explain how they take account of climate change in their investment strategies. By October 2020, all schemes will be required to report publicly how they do so, as transparency is key to informed decisions and informed change.

19. The Department has advised the Committee that, since the Bill was introduced, other amendments have also been made to add further detail on policies already in the Bill, which were covered by the original Legislative Consent Memorandum, such as a charge cap for Collective defined contribution (CDC) schemes. The existing charge cap (set in regulations at 0.75%) provides an important protection for members in the default arrangements of money purchase schemes used for Automatic Enrolment. This amendment ensures that the regulation making powers in the Pensions Act (NI) 2015 regarding charge caps, apply to CDC schemes, so that we can provide for a similar charge cap to be implemented in CDC schemes.

20. There has also been a transfer rights amendment to enable the Department for Communities to prescribe conditions that must be satisfied before scheme trustees and managers can permit an individual to exercise their statutory right to transfer their pension savings out of an unfunded public service defined benefits scheme, and into another pension scheme arrangement. This amendment aims to safeguard members of unfunded public sector schemes from targeting by criminals and fraudsters.

21. A further transfer rights amendment has also been made to clarify that, in prescribed circumstances, the trustees or managers of a scheme are not required to carry out a person's request to transfer pension benefits to a different scheme, unless they are satisfied that the person concerned has obtained prescribed guidance or information on pension transfers. This is with a view to limiting pension scams, particularly in light of the Covid-19 impact.

22. In addition to the amendments already outlined, a Pensions dashboard amendment has been made that will make it clearer that there will be a public service pensions dashboard as well as commercial dashboards. Although the intention has always been to provide a public service pensions dashboard through the Money and Pensions Service, currently there was no explicit provision on the face of the Bill requiring a public service pensions dashboard.

23. Amendments relating to the use of delegated powers in relation to Collective Money Purchase Benefits have been made. The delegated powers for ‘Authorisation criteria’ subordinate legislation will be confirmatory at all usages. The delegated power for ‘Transfer rights’ will also be subject to the confirmatory procedure. This is in line with the corresponding powers for the GB legislation which will be subject to the affirmative procedure. An amendment has also been made to clarify an existing power allowing for the modification of statutory provision to make it clear which provisions may be amended and for which purposes.

24. The Department states that these amendments are generally seen as positive measures which optimise the opportunity to legislate for pension schemes to better help people plan for the future and to protect people’s pensions.

25. Under the Bill, the power to make subordinate legislation and to commence provisions relating to devolved matters will vest in the Department for Communities. Likewise, the powers of control over the subordinate legislation will vest in the Assembly which is something that the Committee welcomes.

26. The Department’s letter concluded by saying that the Bill ensures that the pensions system is fit for the future by strengthening the system and introducing important safeguards and also deterrents for those who might seek to avoid their responsibilities. Their introduction in Northern Ireland will ensure that the pension system can continue to function and that scheme members in Northern Ireland are not put at a disadvantage compared to people in Great Britain.

Consideration of the Further Legislative Consent Memorandum by the Committee

27. The Committee was briefed by Departmental officials at its meeting on 15 October 2020.

28. Members were informed that the Westminster Pension Schemes Bill establishes collective money purchase schemes where contributions are pooled and invested to deliver an aspired benefit level. The Bill strengthens protection for scheme members, enhances the powers of the Pensions Regulator and introduces stronger sanctions for those who wilfully or recklessly harm their pension schemes. These sanctions include a maximum 7-year prison sentence and a civil penalty of up to £1m and the Bill also increases transparency about individuals' pension saving by introducing pensions dashboards and the introduction of provisions to help tackle pension scams.

29. The officials then outlined the amendments that were introduced to the Bill at Lords Committee Stage. The main amendments were in relation to climate-related financial disclosures. These amendments introduced a new policy to the Bill with the aim of securing effective governance and disclosure of the risks facing schemes and of the risks and opportunities associated with the transition to a lower-carbon economy. The amendments in relation to climate change were welcomed by the Committee.

30. The Committee was informed that other amendments had also been made to add further detail on policies already in the Bill. One of the amendments was a charge cap for Collective Defined Contribution (CDC) schemes. The existing charge cap (set in regulations at 0.75%) provides an important protection for members in the default arrangements of money purchase schemes used for Automatic Enrolment. The amendment ensures that the regulation-making powers in the Pensions Act (NI) 2015 regarding charge caps, apply to Collective defined contribution schemes, so that a similar charge cap can be implemented in CDC schemes. The Committee were supportive of the amendment.

31. A transfer rights amendment has also been introduced to the Bill which will enable the Department for Communities to prescribe conditions that must be satisfied before scheme trustees and managers can permit an individual to exercise their statutory right to transfer their pension savings out of an unfunded public service defined benefits scheme, and into another pension scheme arrangement. As the amendment aims to safeguard members of unfunded public sector schemes from targeting by criminals and fraudsters, the Committee welcomed it and the further transfer rights amendment which was aimed at limiting pension scams.

32. The Committee also welcomed an amendment in relation to the Pensions dashboard which ensures that there will be a public service pensions dashboard as well as commercial dashboards.

33. The final amendments are in relation to the use of delegated powers regarding Collective Money Purchase Benefits. Members welcomed that fact that the delegated powers for the 'Authorisation criteria' subordinate legislation will be subject to the confirmatory procedure, as will the delegated power for 'Transfer rights'.

34. The Committee was informed by the Departmental officials that the amendments are generally seen as positive measures which are aimed at optimising the opportunity to legislate for pension schemes to better help people plan for the future and to protect people's pensions. Officials also informed the Committee that further detail on these provisions will be set out in subordinate legislation, made by the Department for Communities and subject to Assembly control. The fact that the Assembly will have control over the subordinate legislation is particularly welcomed by the Committee.

34. The Committee accepts it is advantageous that any changes to the regulation of pensions as a result of legislation is made across all jurisdictions at the same time to ensure compliance and enforcement.

35. The Committee acknowledges that the Bill will strengthen the pensions system by introducing certain safeguards and enhanced sanctions.

36. The Committee is supportive of the additional draft Legislative Consent Motion which endorses the principle of extension of the principles of the Pensions Schemes Bill, as introduced in the House of Lords, to Northern Ireland.