PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT OCCUPATIONAL AND PERSONAL PENSION SCHEMES (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2018

DRAFT OCCUPATIONAL AND PERSONAL PENSION SCHEMES (AMENDMENT ETC.) (NORTHERN IRELAND) (EU EXIT) REGULATIONS 2018

Wednesday 16 January 2019

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Sunday 20 January 2019

The Committee consisted of the following Members:

Chair: Mr Laurence Robertson

Antoniazzi, Tonia *(Gower)* (Lab)
† Bradley, Ben *(Mansfield)* (Con)
† Charalambous, Bambos *(Enfield, Southgate)* (Lab)
† Clark, Colin *(Gordon)* (Con)
Cooper, Rosie *(West Lancashire)* (Lab)
† Dromey, Jack *(Birmingham, Erdington)* (Lab)
† Dunne, Mr Philip *(Ludlow)* (Con)
† Fabricant, Michael *(Lichfield)* (Con)
† Grant, Mrs Helen *(Maidstone and The Weald)* (Con)
† Grogan, John *(Keighley)* (Lab)
† Opperman, Guy *(Parliamentary Under-Secretary of State for Work and Pensions)*
† Pursglove, Tom *(Corby)* (Con)
† Rimmer, Ms Marie *(St Helens South and Whiston)* (Lab)
† Scully, Paul *(Sutton and Cheam)* (Con)
† Stephens, Chris *(Glasgow South West)* (SNP)
† Stevens, Jo *(Cardiff Central)* (Lab)
† Whittaker, Craig *(Lord Commissioner of Her Majesty's Treasury)*

Rob Cope, Kevin Candy, *Committee Clerks*

† attended the Committee

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Wednesday 16 January 2019

[MR LAURENCE ROBERTSON *in the Chair*]

Draft Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2018

2.30 pm

The Parliamentary Under-Secretary of State for Work and Pensions (Guy Opperman): I beg to move,

That the Committee has considered the draft Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2018.

The Chair: With this it will be convenient to consider the draft Occupational and Personal Pension Schemes (Amendment etc.) (Northern Ireland) (EU Exit) Regulations 2018.

Guy Opperman: It is a pleasure to serve under your chairmanship, Mr Robertson. These regulations make changes to domestic legislation that would otherwise no longer operate effectively once the UK withdraws from the European Union. Given that Parliament has voted against the withdrawal agreement, these regulations will help to ensure that we have a functioning statute book in the event that the UK exits the European Union without a deal. It is important to prepare for every eventuality, but I want to stress to the Committee that if we were to get a deal, these regulations would be scrapped, providing that all matters were agreed.

The UK is not reliant on any European institutions or agencies for essential functions in respect to private pensions, such as approvals, licences, decisions or rates. The Pensions Regulator's powers are derived from UK law. This means that the UK does not need to create any legislation to replicate domestically any EU-level activities relating to occupational and personal pensions after the UK's exit from the European Union. However, we must ensure that domestic legislation relating to occupational and personal pensions does not rely on any definitions, obligations or reciprocal arrangements that will no longer apply once the UK is no longer an EU or EEA member state.

UK domestic legislation contains various instances of reference to EU law and to the UK as a member state of the EU, which would no longer be the case once the UK exits the European Union. This includes where distinctions have been made between EU or EEA member states and overseas entities that will no longer apply, where the UK is referred to as an EU or EEA member state, or where the UK is obliged to share data with EU agencies or member states under reciprocal agreements that will no longer apply.

Northern Ireland's occupational and personal pensions legislation broadly mirrors legislation in Great Britain. We are therefore making regulations that make analogous amendments to the corresponding Northern Ireland legislation. The Department of Communities in Northern Ireland has helped to develop and agree the text of the regulations, which I commend to the Committee.

2.32 pm

Jack Dromey (Birmingham, Erdington) (Lab): It is a pleasure to serve under your chairmanship, Mr Robertson. The statutory instrument, which is not objectionable, makes technical changes to pensions legislation to ensure that retained EU law continues to operate as it has previously, but with us outside the EU.

However, we have to raise certain concerns relating to the prospect of no deal in respect of investing, including whether passporting rights will continue regardless. The biggest impact could be felt at the next stages by those in defined contribution schemes, whose pension is dependent on market value. For some the impact could be very serious indeed.

Aside from the likely chaos and economic damage, the technical implications of no deal for pension fund investing could impact asset values. First, as a member state of the EU, we can operate within the single market, which gives UK investors access to other members states' financial services via what is known as the passport arrangement. Secondly, that is because services, particularly financial services, are covered by the general agreement on trade in services, which is the first and only set of multilateral rules governing international trade in services, and which is inferior to single market operations. Thirdly, under the GATS, the UK's financial services sector would lose a number of benefits it currently enjoys under EU law, especially passporting rights, resulting from the financial services single market.

That is why discussions about future trade relationships with the European Union have centred on an equivalence regime, which means terms of trade equivalent to those we enjoy in the single market. Fund managers and banks can get around no deal by establishing and operating an arm in the EU, and many already have. It is likely that the EU will allow investing between the UK and the single market to continue to ensure that there is no significant disruption to the banking and investing sectors of the economy.

Significant issues then arise for asset managers, who manage 98% of our pension assets, in the Brexit negotiations. Those issues include the continued ability to delegate management of European funds to UK managers so that the UK can continue to manage assets for clients and funds from across the EU; a clear timetable for UK withdrawal so that asset managers can plan effectively; and whether the UK Government will maintain broad regulatory equivalence with its EU counterparts in future so that, whatever the ultimate shape of Brexit, investors on both sides can maintain confidence in the asset management regime in the UK.

No deal presents significant risks for all pension fund investors and, more significantly, for defined contribution scheme members who, by the very nature of those arrangements, bear all the risks of investing. Falls in asset value reduce the value of the individual's investment pot. Those who are in retirement and who are drawing down money from their pots could see them reduced to insufficient levels.

Because financial services are covered by World Trade Organisation rules, technically, continued trading and management of pension assets would cease between the UK and the EU member states, because the UK would become a third country with no passporting rights. A no deal would have a significant impact on relationships with the EU and would raise significant questions about the nature of any future trading relationship for financial services. In those circumstances, we would be relying on the EU to maintain equivalence all through the period post no deal only on the basis of grace and favour, due to the severe impact on the EU member states' financial services sectors and the fact that their own pension funds use UK asset managers, who manage £2.5 trillion of clients' money from outside the UK.

UK financial institutions could establish subsidiaries and apply for national licensing in the EU27. The host countries' authorities would then supervise their EU27 branches in matters of reorganisation and winding up. National licensing schemes are, however, more limited, complex and costly because of the differences between them. Alternatively, the UK could ask the Commission for equivalence treatment. However, the equivalence regime is very limited in its scope and can be withdrawn at any time.

In conclusion, the regulations before us are not in themselves objectionable, but there are some very significant issues raised for pensions more generally, and for defined contribution schemes in particular.

2.38 pm

Chris Stephens (Glasgow South West) (SNP): I associate myself very much with the remarks made by the shadow Minister. I have one question for the Minister: as he will know, I am a member of the Work and Pensions Committee. Will he assure us that the Select Committee will be kept in touch with any changes required in relation to cross-border activity, and that those discussions will be ongoing?

2.39 pm

Guy Opperman: I will answer hon. Gentleman's question about the Work and Pensions Committee first: by all means, I will do so. I will undertake to write to explain not only the content of these particular regulations, but any other matters that arise. My understanding is that we are not taking forward any other specific pension-related EU Brexit no-deal situations, but I will get that confirmed in writing and send it to the Chair and the members of the Committee.

In relation to the point by the hon. Member for Birmingham, Erdington, the regulations ensure that pension schemes can continue to invest in regulated markets not only in the United Kingdom, but in the European economic area and overseas, on an ongoing basis. These regulations apply where an employer is using an EU base for its pension scheme, or has done so already. It is about the location of the scheme. We genuinely believe that fewer than 1,000 people will be affected by such a situation because, as he will be aware, the vast majority of schemes have a UK base. He raised specific points on passporting. I am sure my Treasury colleagues, who are taking responsibility for that, will be delighted to write to him and give a due assessment of the wider investment issues relating to passporting but, in the circumstances, I commend the regulations to the Committee.

Question put and agreed to.

DRAFT OCCUPATIONAL AND PERSONAL PENSION SCHEMES (AMENDMENT ETC.) (NORTHERN IRELAND) REGULATIONS 2018

Resolved,

That the Committee has considered the draft Occupational and Personal Pension Schemes (Amendment etc.) (Northern Ireland) (EU Exit) Regulations 2018.—*(Guy Opperman.)*

2.41 pm

Committee rose.