

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

PENSION SCHEMES (CONVERSION OF GUARANTEED MINIMUM PENSIONS) BILL

Wednesday 2 February 2022

CONTENTS

CLAUSES 1 TO 3 agreed to.
Bill to be reported, without amendment.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

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Sunday 6 February 2022

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The Committee consisted of the following Members:*Chair:* CLIVE EFFORD

† Antoniazzi, Tonia (*Gower*) (Lab)
 † Baker, Duncan (*North Norfolk*) (Con)
 † Britcliffe, Sara (*Hyndburn*) (Con)
 † Drummond, Mrs Flick (*Meon Valley*) (Con)
 Duffield, Rosie (*Canterbury*) (Lab)
 † Ferrier, Margaret (*Rutherglen and Hamilton West*)
 (Ind)
 Fletcher, Nick (*Don Valley*) (Con)
 † French, Mr Louie (*Old Bexley and Sidcup*) (Con)
 † Gullis, Jonathan (*Stoke-on-Trent North*) (Con)
 Jones, Fay (*Brecon and Radnorshire*) (Con)
 † Jones, Mr Kevan (*North Durham*) (Lab)

† Liddell-Grainger, Mr Ian (*Bridgwater and West
Somerset*) (Con)
 † McKinnell, Catherine (*Newcastle upon Tyne North*)
 (Lab)
 † Mackrory, Cheryllyn (*Truro and Falmouth*) (Con)
 † Opperman, Guy (*Parliamentary Under-Secretary of
State for Work and Pensions*)
 † Rodda, Matt (*Reading East*) (Lab)
 Shannon, Jim (*Strangford*) (DUP)

Adam Mellows-Facer, *Committee Clerk*

† **attended the Committee**

Public Bill Committee

Wednesday 2 February 2022

[CLIVE EFFORD *in the Chair*]

Pension Schemes (Conversion of Guaranteed Minimum Pensions) Bill

9.25 am

The Chair: My selection of grouping for today's sitting is available online and in the room. No amendments were tabled. We will have a single debate covering all three clauses of the Bill. The formal decisions on the clauses will be taken without further debate at the end.

Clause 1

CONVERSION OF GUARANTEED MINIMUM PENSIONS

The Chair: With this it will be convenient to discuss clauses 2 and 3 stand part.

Margaret Ferrier (Rutherglen and Hamilton West) (Ind): It is a pleasure to serve under your chairmanship, Mr Efford. I am grateful to you and to Committee members for joining me today to look at the detail of this legislation, which, as I said on Second Reading, is very technical in appearance but has a clear and simple purpose.

The Bill will help occupational pension schemes to convert guaranteed minimum pensions, at the same time correcting the basic issue of men and women being treated differently in those schemes because of the impact of having a guaranteed minimum pension. This will ensure that people do not receive less pension income than they would have received had they been of the opposite sex. In other words, the Bill will help schemes to correct a situation that has been judged since 1990 to be fundamentally unfair.

On Second Reading, I was delighted to hear the Under-Secretary of State for Work and Pensions, the hon. Member for Hexham, and the hon. Member for Stalybridge and Hyde (Jonathan Reynolds) voice their support for the Bill. The hon. Member for Stalybridge and Hyde said,

"We should be doing everything possible to help the pensions industry to fulfil what are now its legal duties to deliver GMP equalisation, and that includes supporting the Bill."—[*Official Report*, 26 November 2021; Vol. 704, c. 622.]

The Minister helpfully gave a brief history of guaranteed minimum pensions in his speech on Second Reading, but because of the technical nature of the Bill, it is necessary to give some background today.

The state pension used to be made up of two parts: the flat rate basic state pension and the earnings-related additional state pension. However, as many employees were already members of occupational pension schemes provided by their employer, building up an earnings-related additional state pension as well as an occupational pension was seen to be dual provision, so from April 1978 to April 1997, legislation allowed employers sponsoring a salary-related occupational pension scheme to contract out their pension scheme from the earnings-related additional state pension; in return, the scheme was

obliged to pay a guaranteed minimum pension to its members. The intention was that the GMP would be broadly equivalent in value to the additional state pension forgone. In a contracted-out scheme, because the scheme was paying the equivalent of the additional state pension, both the employer and the contracted-out pension scheme members paid lower national insurance contributions.

The GMP rules are set out in legislation. GMPs include important rights to survivor benefits, which I will touch on later. However, the way that GMPs work means that men and women in a scheme with the same pay and service history can end up receiving different amounts of GMP. That is obviously not right and needs to be corrected. It is not even as simple as women losing out on GMPs compared with men. Because the rules around GMPs are very complicated, both men and women can lose out.

The requirement to provide equal pensions for men and women in relation to pension benefits accrued since 17 May 1990 is set out in UK legislation—currently through the Equality Act 2010—and has been as far back as 1995 through section 62 of the Pensions Act 1995. Occupational pension schemes with GMPs are therefore required to equalise people's pensions to correct for the effect of unequal GMPs for pensions accrued since 17 May 1990. That was confirmed by the 2018 judgment of the High Court in the Lloyds Banking Group Pensions Trustees Ltd case. However, as anyone who has had any involvement with this aspect of occupational pension schemes can tell you, equalising pensions to correct for the effects of differences in GMPs is not a simple process.

The Department for Work and Pensions worked closely with representatives from the pensions industry to develop user guidance on a methodology for equalisation, which was published in 2019. The methodology set out in the guidance involves converting the guaranteed minimum pension into other pension benefits that are not bound by the same complex rules as guaranteed minimum pensions. A person's overall pension income from their occupational pension scheme can then be more easily corrected for the effect of the differences in retirement income for men and women that the complex guaranteed minimum pensions rules produce. The methodology uses what is known as GMP conversion, or the conversion of guaranteed minimum pensions. The law around conversion of GMPs is set out in the Pension Schemes Act 1993.

As ever with pensions, things are rarely straightforward, and true to type this aspect of pensions legislation is not simple. The pensions industry has long expressed concern that the conversion provisions in the 1993 Act contain uncertainties that could expose occupational pension schemes to legal risks if it is used to correct members' pensions for the differences caused by the complex rules around guaranteed minimum pensions. Because it is about people's pension income, it is very important that occupational pension schemes have the clarity they need if they are to be able to use GMP conversion to meet their legal requirement to equalise. Clause 1 clarifies and amends the conversion provisions in the 1993 Act to ensure that pension schemes have the clarity they need to use these provisions. It makes consequential amendments to other pensions legislation.

The pensions industry has expressed concern about certain areas of the guaranteed minimum pension conversion legislation. First, the industry is concerned

that conversion legislation is unclear as to whether and how conversion applies to survivor benefits. Survivor benefits are extremely important to many people and are a key part of the concept of the guaranteed minimum pension. If a person has a guaranteed minimum pension, after their death a portion of that pension must be paid to their widow, widower or surviving civil partner. It is often a crucial source of income for someone who has been bereaved, and many people greatly value the knowledge that their surviving spouse or civil partner will receive some pension income in the event that they pass away. Providing financial security for those we leave behind is important to many of us.

Less emotive, but equally important, the pension industry is concerned that the conversion legislation does not make it clear what to do in circumstances where the identity of the sponsoring employer is not clear. The legislation requires an occupational pension scheme's sponsoring employer to give its consent before the scheme converts guaranteed minimum pensions into other scheme benefits. However, the existing legislation does not cover some increasingly common employer circumstances. For example, if there were multiple sponsoring employers in the same pension scheme and one had ceased to exist, the scheme would have no means of getting the consent of all the sponsoring employers. It is unclear what the legislation requires in such cases.

Finally, the 1993 legislation requires occupational pension schemes to notify Her Majesty's Revenue and Customs that they have carried out a conversion exercise. However, the introduction of the new state pension means that HMRC does not need to be informed about GMP conversion, because the new state pension no longer contains any kind of contracted-out provisions. That may seem trivial compared with survivor benefits providing a pension income to a person's survivor, but it results in a lot of unnecessary paperwork for both occupational pension schemes and HMRC.

Clause 1 clarifies the legislation to address these concerns. In subsections (2) to (4), it clarifies both the application of GMP conversion to GMPs paid to a member's spouse or civil partner, and how survivor benefits must work once an earner's GMPs have been converted. The clause makes it clear that the GMP conversion legislation can be applied to persons who are survivors at the time of the conversion as well as to the actual earners, and ensures the legislation is consistent in how it refers to that.

Subsection (4) removes the detailed and arguably unclear text in the 1993 Act about what survivor benefits following GMP conversion must look like. Instead, subsection (3)(c) contains a power to set out in regulations the conditions that must be met in relation to survivor benefits following GMP conversion. That means that the Secretary of State for Work and Pensions is being given the power to set out in regulations conditions governing how, when a member's GMP has been converted, the converted pension must provide for survivor benefits to be paid to a deceased member's widow, widower or surviving civil partner. That is appropriate because these issues are very technical and detailed. It is obviously extremely important when dealing with something as complex and emotive as the calculation and payment of survivor benefits from former GMPs now converted into other scheme benefits that the issues are considered

in detail. The regulations will be able to set out a clear framework for the provision of survivor benefits after the conversion has taken place.

The other great advantage of regulations, of course, is that the Government can hold a full consultation on draft regulations before they are laid before the House. That will ensure that scheme members, scheme trustees, scheme administrators and anyone else with an interest in GMP conversion and/or the survivor benefits to be provided—many people in the UK, I am sure—can comment on, review and suggest changes to the draft regulations before they are finalised. As the content of the regulations will obviously be a matter for the Government, I hope that the Minister will discuss that further as and when he speaks in support of the Bill.

Subsection (5)(a) removes the reference to "The employer" where the 1993 Act requires

"The employer...to consent to the GMP conversion".

As I said, this is to resolve the currently unsolvable situation that schemes can find themselves in whereby they want to convert GMPs and then equalise people's pensions to ensure that everyone gets the pension income they are entitled to, but they find themselves unable to do so, for example because one of the sponsoring employers has ceased to exist or it is not clear whose consent is required.

Such problems are not particularly unusual for occupational pension schemes. Pension schemes have very long lifespans, and it is not difficult to see how a scheme set up in the 1980s may no longer be sponsored by the same employer. Subsection (5)(a) therefore replaces the term "The employer" with

"Each relevant person (if any)".

Clause 1 then gives the Secretary of State for Work and Pensions the power to set conditions in regulations in order to identify "relevant persons". Again, I expect that the regulations will be technical and detailed, so that they give more clarity than the existing primary legislation. Making such technical and detailed provisions in regulations is quite normal in occupational pensions legislation. As I have already explained, it is very important to ensure that those whose consent is required can be identified. By proposing to give the Government this power, I am holding them to consult on the conditions that will apply to identify "relevant persons". It is important that the affected members, trustees, administrators and, of course, employers themselves are able to comment on and make suggestions about the Government's proposed conditions before they are laid before the House.

Clause 1(5)(d) removes the requirement for pension schemes to notify HMRC when they carry out a GMP conversion exercise. As I said, that information is no longer needed by HMRC. It costs schemes time and money to notify HMRC, it costs HMRC time and money to process the notifications, and there is no need beyond the current requirement in the 1993 Act for any of that time and money to be spent.

In addition, subsections (6) to (12) make some consequential amendments to the Pension Schemes Act 1993, the Pensions Act 2007, the Marriage (Same Sex Couples) Act 2013 and the Pension Schemes Act 2015 to take account of the changes I have described.

[Margaret Ferrier]

The hon. Member for Gedling (Tom Randall) said on Second Reading that the Bill is “very technical”. I hope my speeches then and now have clarified what the very complex-looking clause 1 actually does.

Clause 2 replicates clause 1 but for the parallel Northern Ireland legislation. It does everything clause 1 does, but for occupational pension schemes in Northern Ireland. To be strictly accurate, I should say that clause 2 does not quite do everything clause 1 does, as it does not contain amendments equivalent to those made in clause 1(11) and (12) to the Marriage (Same Sex Couples) Act 2013 or the Pension Schemes Act 2015. That is because they are consequential, tidying-up amendments. Clause 1(11) amends a provision that is in primary legislation for England, Wales and Scotland, but in secondary legislation for Northern Ireland, so any equivalent amendment for Northern Ireland would also be made in secondary legislation; and subsection (12) refers to legislation that extends a provision for England and Wales to Scotland, so is not relevant to Northern Ireland.

Rather than going through the entire clause again, I should perhaps explain why clause 2 is concerned with Northern Ireland. As hon. Members may know, private pension legislation is a devolved matter for the Northern Ireland Assembly. However, the convention is that the Northern Ireland Assembly makes pension legislation that mirrors the law in England, Wales and Scotland. It would therefore seem entirely sensible to ensure that pension schemes do not have to operate two different systems depending on whether someone is in Belfast, Birmingham, Bannockburn or Bangor. On this occasion, because of time pressures, the Northern Ireland Executive asked for Northern Ireland to be included in the Bill by amending the relevant parts of Northern Ireland’s pensions legislation. The Northern Ireland Assembly has passed a legislative consent motion agreeing that the UK Parliament can legislate on the matters contained in clause 2.

Clause 3 is known as a “back of the Bill clause”. It sets out vital but standard information on how clauses 1 and 2 are to be brought into legal effect. It also sets out the territorial extent of each clause. Importantly, the clause also enables the Secretary of State to make transitional or saving provision in regulations in connection with the coming into force of clause 1, and for the Department for Communities in Northern Ireland to make transitional or saving provision by order in connection with the coming into force of clause 2. This will enable provision to be made about pension schemes that have already used the conversion legislation or are in the process of doing so when the amendments come into force, to ensure the amendments do not affect what has already been done under the current legislation.

Successive UK Governments since 1990 have made it clear that occupational pension schemes need to equalise pensions to correct for these effects of guaranteed minimum pensions. It seems wrong that people can lose out on even a small amount of pension income purely because of those differences. That is why I am extremely pleased and proud that my Bill will help schemes which want to use GMP conversion to correct for the effects of this issue. I am delighted by the cross-party support I have received again today.

Matt Rodda (Reading East) (Lab): It is a pleasure to serve under your chairmanship, Mr Efford. I thank the hon. Member for Rutherglen and Hamilton West for her work on this important Bill. As has been said, the Bill has potential repercussions for millions of people’s pensions. We support the measures to simplify a complicated system and make it much fairer.

I will use my time today to ask a series of questions, which I hope the Minister will address. In particular, I want to ask him about communication, consultation, the requirement to notify HMRC and the wider imbalances between men’s and women’s pensions.

On communication, I have a fundamental question. How have the changes been communicated to those affected? Obviously, we are dealing with a large number of people, going back to the cohort who have been saving for their pensions from 1978. I am afraid that the Government do not have a good track record of communicating changes to the state pension. According to many commentators, previous changes to the pension age were poorly communicated, and more recently the Government have been criticised for their work on sorting out the state pension underpayment crisis. I realise that the Minister is trying to address that. The public deserve reassurance on those issues.

9.45 am

I also point out that the Parliamentary and Health Service Ombudsman has concluded that in the past the DWP has not been open in explaining changes to GMP. Experts have said that using GMP conversion, in some circumstances,

“can trigger disproportionate and unintuitive pensions tax issues.”

In my view, schemes and individuals affected must have clear information to avoid costly errors. I hope the Committee agrees with that and I look forward to the Minister elaborating on these issues later. Obviously, we welcome the Bill but while it is generally positive, sadly some people may be in line to lose out compared with previous expectations. They may need time to plan and adjust.

Further, the Bill must commit to full and timely consultation with experts in the industry and others before the Government introduce the regulations the hon. Member for Rutherglen and Hamilton West spoke about. That consultation must look both at the conditions that must be met in terms of survivors benefits, which she rightly highlighted as a very important point, and at details about who must consent to conversion, which relates to the point about some of the company schemes where the establishment is no longer in existence. What instrument will be used to introduce these regulations? It is important that parliamentarians can adequately scrutinise the changes.

My next question is about removing the requirement to notify HMRC. On what basis is it right to remove this requirement? Are there enough checks and balances in place if the requirement is removed? I hope the Minister will clarify this and assure Members that enough due diligence has been done.

Moving on to wider gender equality issues, obviously there are significant inequalities between men and women in the current pensions systems. GMP equalisation is one way in which imbalances between men’s and women’s pensions need to be addressed, but I urge the Government

to seek assurances that all other aspects of gender inequality and pensions are examined at the same time. We know that the pensions gender gap is around double the pay gap, which is pretty significant, and that small changes at early stages can have very large repercussions. Whenever we take decisions on pensions in this place, we must be aware of the wider repercussions, precisely because they could be difficult to remedy and could be with us for a very long time, as we have discovered when considering this Bill.

As I said, we support the Bill. We believe it is important to tidy up pensions legislation and make it easier for schemes to convert GMP rights into ordinary scheme benefits, but I hope the Minister will be able to provide the assurances I have asked for today, and that parliamentarians will be given proper time and resources to scrutinise any secondary legislation that may be introduced later.

The Parliamentary Under-Secretary of State for Work and Pensions (Guy Opperman): It is a pleasure to serve under your chairmanship, Mr Efford. I thank the hon. Member for Rutherglen and Hamilton West for the hard work she has put in to bring this private Member's Bill to this stage. Introducing a private Member's Bill is never easy. It is sometimes arcane and convoluted, but her Bill is genuinely making a fundamental difference to this country and to many of our constituents, and it applies across this country.

As I indicated on Second Reading—colleagues should take it as read that I repeat the entirety of my long speech on Second Reading, albeit I will not do so today—this is a small, discrete but very important piece of legislation and the Government definitely support it. The hon. Member for Rutherglen and Hamilton West outlined the details of the Bill, but I will briefly touch on a couple of key points that I hope will answer some of the points raised by the hon. Member for Reading East.

Clause 1 ensures that occupational pension schemes in England, Wales and Scotland have greater clarity about how to convert GMPs into other scheme benefits, which gives an opportunity to equalise their members' pensions to correct for the unequal effect of GMPs. Colleagues will understand that Parliament moves quite slowly in some respects, but this problem dates back to 1978 and the last days of the Callaghan Government, so our resolving it is overdue. Clause 2 would achieve the same for occupational pension schemes in Northern Ireland.

Correcting for the unequal effects of GMP is necessary, fair and right. It is important that pension schemes that choose to equalise as part of a conversion exercise are able to do so as easily as possible and are confident that the requirements they are complying with are robust and unambiguous. That is what the Bill delivers.

Clause 1 makes it clear that the conversion legislation can be applied to a person who is a survivor at the time of the conversion and ensures the legislation refers consistently to this group. It also provides the means to set conditions on the survivor benefits provided by the scheme following conversion of a member's GMP. Those changes are important because survivor benefits provide a crucial source of income to widows, widowers and survivors in civil partnerships. For many people, the knowledge that their surviving spouse or civil partner will receive a portion of their pension is highly reassuring.

Let me be very clear: we will consult on those matters. There will be a full consultation among industry to which, obviously, opposition parties and all parts of industry can make representations; there will then follow regulations, which will be debated in this House.

Clause 1 also makes important changes to the existing legislation requiring the scheme's sponsoring employers to consent before guaranteed minimum pensions are converted to other scheme benefits. As the hon. Member for Rutherglen and Hamilton West outlined, the current legislation creates difficulties for some schemes—self-evidently so when, with the passage of time, an employer has ceased to exist. That is a significant problem. It will therefore help schemes if the legislation is amended, and we do so very much as a result of representation from schemes. Clause 1 therefore removes the requirement for the employer to consent to GMP conversion, and replaces it with a requirement for each relevant person to consent. That, with respect, is unquestionably the right way forward.

Finally, clause 1 also removes the need for pension schemes to inform HMRC when they carry out a conversion exercise. That is because the new state pension does not contain any kind of provision for contracting out, and HMRC no longer has any use for or interest in this information—indeed, it has been asking schemes not to send it in. The clause is, with respect, an excellent example of the simplification and reduction of needless bureaucracy in action—bureaucracy that otherwise would fall upon scheme members and HMRC, which is funded by taxpayers.

Clause 2 closely mirrors clause 1 to amend the law of Northern Ireland. I am devastated that the hon. Member for Strangford is not here to intervene on me, but I have raised this with him in the past and he is very supportive of the measures. It is certainly the case that these necessary changes should be made in one fell swoop across the United Kingdom. I am pleased to confirm that on 24 January the Northern Ireland Assembly passed a motion to consent to the inclusion of the provisions for Northern Ireland in the Bill.

The Bill is an excellent step towards helping pension schemes to confidently correct for the unequal effects of guaranteed minimum pensions. I suggest that the hon. Member for Rutherglen and Hamilton East has received support for her Bill in this House because it is clearly necessary.

The hon. Member for Reading East raised a number of particular points, and I will write to him with more detail. On gender inequality, he will understand that the Turner commission was set up under the Labour Government by Tony Blair specifically to address fundamental gender inequality. It resulted in the cross-party success story that is automatic enrolment, which has seen female private pensions saving go from approximately 35% in 2012 to well over 80% in 2019-20. The specific provisions on RAS—relief at source—are a matter for the Treasury, which I understand is consulting on and looking at them on an ongoing basis.

I repeat that these matters will all be consulted on in the appropriate way, and that there will be regulations that will be debated by the House in the usual way. It is unquestionably the case that this will be treated like a normal Act of Parliament, with all due representations.

[*Guy Opperman*]

I thank colleagues for the collaborative way in which they have addressed a long-standing problem that is technical but necessary to resolve, and that impacts so many of our constituents up and down the country.

Finally, I was asked whether the Bill means some people will lose money. The specific answer to that is no: no one will see their pension rights reduced when their pension is corrected for the effects of the rules around GMP. Pension schemes will correct for the effects of GMP rules only by increasing people's pensions to the higher amount.

With that, I thank the hon. Member for Rutherglen and Hamilton West. I look forward to following the Bill through its remaining parliamentary stages in the other place and back in this place.

Margaret Ferrier: I thank all those who have contributed to this short, constructive debate and all Members who agreed to serve on the Committee. I also thank all those who contributed more widely to the small but incredibly important changes made by the Bill, and ask that everyone continues that cross-party support until we get the Bill over the line. I also thank the Minister for his support throughout, and I thank the hon. Member for Reading East.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clauses 2 and 3 ordered to stand part of the Bill.

Bill to be reported, without amendment.

9.55 am

Committee rose.