

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT PENSION SCHEMES ACT 2015
(TRANSITIONAL PROVISIONS AND APPROPRIATE
INDEPENDENT ADVICE) (AMENDMENT NO. 2)
REGULATIONS 2017

Wednesday 29 November 2017

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The Committee consisted of the following Members:

Chair: GRAHAM STRINGER

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| † Aldous, Peter (<i>Waveney</i>) (Con) | † Kyle, Peter (<i>Hove</i>) (Lab) |
| † Bridgen, Andrew (<i>North West Leicestershire</i>) (Con) | † Leslie, Mr Chris (<i>Nottingham East</i>) (Lab/Co-op) |
| Champion, Sarah (<i>Rotherham</i>) (Lab) | † McGinn, Conor (<i>St Helens North</i>) (Lab) |
| † Cunningham, Alex (<i>Stockton North</i>) (Lab) | † Merriman, Huw (<i>Bexhill and Battle</i>) (Con) |
| † Duddridge, James (<i>Rochford and Southend East</i>) (Con) | † Opperman, Guy (<i>Parliamentary Under-Secretary of State for Work and Pensions</i>) |
| † Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab) | † Rutley, David (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Graham, Richard (<i>Gloucester</i>) (Con) | † Stephens, Chris (<i>Glasgow South West</i>) (SNP) |
| † Jayawardena, Mr Ranil (<i>North East Hampshire</i>) (Con) | Sean Kinsey, Yohanna Sallberg, <i>Committee Clerks</i> |
| † Jones, Darren (<i>Bristol North West</i>) (Lab) | |
| † Knight, Julian (<i>Solihull</i>) (Con) | † attended the Committee |

Fourth Delegated Legislation Committee

Wednesday 29 November 2017

[GRAHAM STRINGER *in the Chair*]

Draft Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) (Amendment No.2) Regulations 2017

8.55 am

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

That the Committee has considered the draft Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) (Amendment No.2) Regulations 2017.

It is a pleasure, Mr Stringer, to serve under your chairmanship. The regulations, which were laid before the House on 10 July 2017, will reduce confusion for pension scheme members and burdens for industry. They enact the conclusions of a call for evidence in 2015, on the issue of how a scheme determines whether a member is required to take financial advice before transferring their pension savings.

Plainly put, the regulations simplify how trustees and scheme managers value members' pensions, in order to determine whether the requirement to take advice under section 48 of the Pension Schemes Act 2015 applies. The provisions form part of a wider package of changes that, as a whole, expand and simplify the protections for members with potentially valuable guarantees attached to their pensions.

The pension freedoms, introduced in April 2015, have given individuals aged 55 and over greater choice in how and when they access their defined contribution pension savings. Members who save into pension arrangements that provide potentially valuable guarantees can generally exercise these new freedoms, where necessary, by first transferring to a defined contribution scheme or converting to defined contribution savings.

These pension arrangements—safeguarded benefits—include typical defined benefit schemes as well as defined contribution arrangements, which offer safeguarded flexible benefits. Safeguarded flexible benefits are flexible, in that there is a pot, which is cash-based, meaning that the pension freedoms apply; but also safeguarded because they include a promise in relation to the secure income they may provide in retirement.

Normally, but not exclusively, safeguarded flexible benefits are personal pension contracts that include the option to take an annuity at a guaranteed rate. These are commonly referred to as a guaranteed annuity rate, or GAR. Because of the valuable guarantees offered by safeguarded benefits, section 48 of the Pension Schemes Act 2015 introduced an advice requirement alongside the pension freedoms. That requires trustees and scheme managers to check that members with safeguarded benefits have taken financial advice before transferring or otherwise flexibly accessing those benefits.

Section 48(3) provides a power to create exceptions to the requirement, and this was exercised in regulation 5 of the Pension Schemes Act 2015 (Transitional Provisions

and Appropriate Independent Advice) Regulations 2015, to provide an exception for members whose safeguarded benefits under their scheme are valued at £30,000 or less. It is that legislative requirement—how pensions are valued for the purpose of determining whether it applies—that I am proposing to amend.

The Government have become aware that the methodology prescribed in regulation 5 of the 2015 regulations for valuing members' benefits against the £30,000 threshold has resulted in firms that offered GARs having to provide two values for the member's pension: first, the transfer value, which an individual will actually receive, and, secondly, the actuarially calculated, but ultimately notional, value against which the £30,000 advice threshold is tested.

Providers and consumer groups reported members with safeguarded flexible benefits experiencing confusion as to why they were receiving two valuations. This means that there is always a risk that members may choose to pay for advice, wrongly believing that they would be entitled to the higher actuarially calculated value, when they would receive only the lower transfer value.

Regulation 4 of the regulations that we are debating will, if approved, amend regulation 5 of the 2015 regulations so that, under paragraph (1) of that provision, trustees and scheme managers will be required to treat the value of safeguarded benefits as equal to the transfer value of those benefits when determining whether the £30,000 threshold is met. Meanwhile, those offering safeguarded flexible benefits, such as GAR, will produce only one valuation: the transfer value of the member's benefits, determined in accordance with the legislative provisions referred to in paragraph (2) of amended regulation 5.

For most schemes, that will be the cash value of the member's pot. That single figure is easily explained and avoids confusion for members. It is also widely used within other communications and already produced by firms. The instrument also contains transitional provisions in regulation 6 to accommodate the change from one valuation methodology to another so that members are not disadvantaged. Finally, regulation 4 makes a further amendment to the valuation methodology in regulation 5 of the 2015 regulations, removing an inconsistency in the treatment of defined benefit pension scheme savers.

In conclusion, we remain committed to the principle that pension savers choose when to access their pension savings. It is equally important that they are supported in doing so. The Government have listened carefully both to stakeholders and to those representing consumers, and these regulations show that we are meeting our commitment, made as part of a consultation exercise, not only to monitor the pension freedoms themselves, but to reform existing measures where needed. I commend the regulations to the Committee.

9 am

Alex Cunningham (Stockton North) (Lab): Good morning, Mr Stringer; it is a pleasure to serve under your chairmanship.

We agree that the regulations are designed to help people, and we will not oppose them. I have a number of comments and questions, but I do not expect or intend to detain the Committee very long. As the Minister

said, the regulations have been introduced to provide protections for people at a time of real financial difficulty for millions of people in our country. Wages are down in real terms, millions are using food banks and thousands of families with children will be homeless this Christmas. The average household budget had unsecured debts amounting to £13,200 at the end of 2016, just below the £13,300 level at the end of 2008, on the eve of the financial crisis.

Analysts at the Trades Union Congress expect that figure to rise to £13,900 by the end of this year and as high as £15,400 by the end of 2021. Nobody should be surprised at people choosing to take lump sums of tax-free money from their pensions because they simply do not have the luxury of being able to plan ahead and look to the future. Their worries are very much in the present. While I recognise that it is important that people with even small benefits with guaranteed annuity rates should receive advice, I cannot say that I do not understand why some people are choosing the option to have their money now.

Pension freedoms are a success to some extent, but people are seduced by the temptation of easy cash for a number of reasons related to their personal circumstances. Here lies the contradiction and unintended consequence of pension freedoms: it is incentivising jam today and may end up leaving little for retirement. One of my biggest questions and concerns is why that was not considered when the 2015 Act was passed. Why is it only now, after two years, when numerous people have taken out lump sums, that the Government have decided it needs to be addressed?

Nevertheless, the decision is still welcome. Advice should be given, and it should be good-quality advice at the lowest possible cost. We must have financial advisers who consider the future of their clients, and provide a real picture of what they can expect. There seems to be an attitude that small safeguarded benefits do not matter as much, when I would argue that they are in fact just as important as any others, if not more so. Any guarantee of a future steady income outweighs the high risk involved in managing one's own pension pot.

People with less than £30,000 may be poorer, facing increased financial difficulty and looking for a way to resolve their problems quickly. They may insist on having their tax-free 25% quickly, but I wonder about the quality of advice that they are getting. They need to know that their guaranteed annuity rates are worth more than cashing in. That is why I welcome any initiative that would require them to receive advice before making any transfers. I look forward to making many similar points when the Financial Guidance and Claims Bill comes to the Commons; I assume that that will be in 2018. I would also argue that the people who have benefits under £30,000 are the people who most need the advice.

That said, while I appreciate that there are concerns about the cost of the advice from Financial Conduct Authority-regulated providers, I do not believe that should be a barrier, nor just an entitlement for the wealthier. As I have said, the change is welcome, but would the Minister agree that for many people the horse has already bolted? They have had their cash, they have spent it and many of them face financial hardship simply because nobody warned them of the risk they were taking. The freedom agenda has been littered with

bad advice. Not everyone is being reasonably and accurately informed about their options, and they are missing the key point that taking the cash would not be as valuable as keeping their pension benefits.

I note that the Government have received representations from schemes and consumer bodies that the current approach is confusing for members, which does not surprise me at all. The Minister has addressed that. I have spoken on the issue of transparency a number of times, and will continue to do so until I am satisfied that there is a real and meaningful clarity provided to those who have occupational and private pensions. Any confusion faced by consumers simply proves my point. We cannot just provide information that is difficult to understand: it needs to be in language that is easily comprehended.

I note that a voluntary approach has been considered but discounted on the grounds that providers would not always comply with a requirement to notify individuals about their guaranteed annuity rates, as it would be a cost to the provider. It is right that there is a requirement for providers to give personalised risk warnings to all members with guaranteed annuity rates, and that they seek advice. I hope that this is another step forward to cleaning up and making this area more transparent and worth while for consumers.

We all know that when it comes to the financial services industry, at times there are those who do not always act in the client's best interest. The Financial Conduct Authority is looking into claims that rogue pension advisers are aggressively targeting steelworkers at Tata's UK plant in Port Talbot. It is a real concern for everybody that advisers have swooped on the steelworkers, in many cases seeking to persuade them to transfer their money to alternative arrangements. While these transfers may enable the steelworkers to access their savings more easily, they invariably carry high costs and almost always involve schemes that carry much greater levels of risk. Despite Government assurances, rogue advisers are reportedly presenting a transfer as the best option for almost all those affected, despite regulators repeatedly warning that most people with defined benefit pension benefits would be better off keeping them.

What will the Government do through the regulator to ensure that we do not see the same thing happen to people who have guaranteed annuity rates savings? I have mentioned the cost of advice. How will the regulator ensure that advisers do not charge excessive fees for advice, which is something that could dig deep into small pots? Likewise, how will they make sure that the rogues in the system do not make a financial killing as a result of these regulations and the new body of people seeking advice?

9.7 am

Guy Opperman: In relation to the points made by the hon. Member for Stockton North, he is right that the Financial Guidance and Claims Bill will not be debated this year. It will be coming to the House of Commons, following extensive consideration, in 2018. Secondly, after the Pension Schemes Act 2015 was passed there was a deliberate call for evidence to assess its impact. The methodology prescribed in regulation 5 of the 2015 regulations for valuing members' benefits against the £30,000 threshold by which firms offered GARs was assessed and then addressed, so we introduced these specific regulations to address those points.

[Guy Opperman]

Thirdly, the cost of financial advice and the importance of people having access to affordable financial advice in these circumstances is something that both the Select Committee on Work and Pensions and the FCA have considered. The financial advice market review that launched in August 2015 explored how the financial advice market could be improved for consumers, including the market for pensions advice. I can assist the hon. Gentleman by making the point that the FCA has published guidance on streamlined advice to help firms provide advice to customers with specific needs in a proportionate way. To tackle issues of the affordability of that advice, the Government have increased the income tax exemption for employer-arranged financial advice on pensions from £150 to £500, and introduced the pensions advice allowance, which allows consumers to access £500 of their defined contribution or hybrid pension pots tax-free up to three times at any age to redeem against the cost of pensions and retirement advice. I would, with respect, make the point that the regulator and the Government have acted on that matter.

In relation to the points on the British Steel pension scheme and Tata pension scheme members, the hon. Gentleman will be aware that we have a further meeting today to discuss that with members who are affected, and I welcome the expansion that we will give on that particular point. What I can briefly tell the Committee today is that the FCA is aware of this issue and is making sure that its expectations are set out to advisers. That includes arranging to meet adviser firms in Swansea. The Government are also working with industry to

prevent scams and investment fraud. He will be aware of Project Bloom and the various other things brought forward to address scams. The British Steel pension scheme has worked with the regulator to ensure that any communications to members both highlight the importance of taking professional advice and signpost where that advice can be obtained. The communications tell members how to check that advisers are approved to give the advice, and give warnings on how to look out for scams. The FCA is monitoring any scam behaviour and will, I assure the hon. Gentleman, take stringent action when something suspicious is reported.

The regulations simplify how trustees and scheme managers value members' pensions when they are determining whether the requirement to take advice applies. They form part of a package of measures and, if approved, will come into force alongside a new requirement to send members tailored communications, ensuring that all members are told about their valuable benefits in a more timely and accessible manner. There will no longer be a cohort of individuals who are required to seek financial advice, but are often unable to locate an adviser willing to advise on their pension savings.

I hope that I have set out for the Committee the need for the regulations and have responded to the matters that have been raised. If not, I will write to the hon. Gentleman with more details. I commend the draft regulations to the Committee.

Question put and agreed to.

9.11 am

Committee rose.