The Pensions Schemes Bill 2019

Department for Work and Pensions

RPC rating: fit for purpose

This opinion covers the provisions as part of the Department's Pension Schemes Bill; for each, a brief description of the change, its impacts as set out in the Impact Assessment (IA) and the quality of submission is provided below. The Pension Bill IA brings together these measures and additional measures that the Department has certified as *de minimis* to provide a complete, over-arching assessment of the Pension Bill. The RPC opined on the Pensions Dashboards IA and Requirements for Defined Benefit pension scheme trustee boards to appoint a Chair & submit a funding strategy statement IA in March 2019[1].

Description of proposal

The Pension Schemes Bill 2019 aims to ensure that the Occupation Pension Schemes system is fit for the future by:

- further strengthening security and increasing transparency so that savers can be confident that their pensions are protected and that The Pensions Regulator (TPR) will take action if pensions are put at risk;
- providing more options for employers to ensure that scheme members can adequately save for retirement and to better protect their income in later life; and
- improving information and guidance for savers so that they can prepare for retirement.

[1] Pension Dashboard RPC opinion & for Defined Benefit pension scheme trustee boards to appoint a Chair & submit funding strategy statement RPC opinion: https://www.gov.uk/government/collections/rpc-opinions-department-for-work-pensions

Regulatory Policy Committee

Measure	Description	Impact	Quality of Submission
Extending and enhancing the Pensions Regulator's Information Gathering Powers *(Annex A)*	The measure will extend TPR's information gathering powers so that: - it can interview a person it believes has relevant information in connection with any of its functions- without the need for written request for information to have already been issued under section 72 of the Pensions Act 2004; - it can enter a wider range of premises where relevant records or information are held, for the purposes of inspection; and - it can issue a civil penalty for non-compliance with section 72 notices, interview or inspections where more appropriate than a criminal prosecution.	The IA explains there will be no changes to what information businesses need to be able to provide to TPR and that the proposed changes relate to how information is gathered by the TPR. Only businesses that are under TPR investigation are in scope to incur one-off familiarisation costs from this proposal. The Department estimates differing levels of familiarisation for different types of schemes and employers. Total one-off costs to businesses are estimated to be £8.9 million in year one, giving an EANDCB of £0.9 million. The IA estimates an increase in the number of interviews and inspections, but this is instead of issuing multiple section 72 notices. The IA anticipates a cost neutral impact on TPR with costs netted off against the efficiency savings resulting from the measure. There will also be no impacts on scheme members.	The IA is clear and concise; and provides a thorough description of the estimated impacts of the measure, including the underlying assumptions. The assessment of familiarisation costs also helpfully includes sensitivity analysis which provides an EANDCB estimate of £1.3 million in a 'high cost' scenario. The IA states that familiarising is expected to be straightforward and the Department do not expect a disproportionate impact on small and micro businesses. The Department has sufficiently assessed the impacts of this measure as a non-qualifying regulatory provision for business impact target (BIT) purposes. The IA could be improved in section 5.3 by explaining why the assumption that the number of cases where the extension of powers used in Defined Contribution (DC) schemes will be similar to Defined Benefits (DB) schemes is reasonable.

Measure	Description	Impact	Quality of Submission
Amendments to The Pension Regulator's Contribution Notice regime *(Annex B)*	The measure will amend TPR's Contribution Notice (CN) regime, to ensure the powers are up-to-date and fit for the future. Evidence provided in the IA suggests that the existing CN regime is at times unclear, leading to situations in which the application of the CN powers do not sufficiently deter wrongdoing, which is putting DB scheme members' savings at risk. The proposal will make four amendments to the CN regime. The proposed amendments to CN powers aim to clarify and strengthen the existing legislation to ensure that TPR's CN powers are up to date and fit for the future.	The amendments could be applicable to all DB schemes; however, the IA explains that they will only have an impact on a small subset of DB schemes where it is reasonable for TPR to take regulatory action. The Department assumes that all DB schemes and sponsoring employers will need to familiarise themselves with changes to the legislation. The Department estimate total familiarisation costs incurred by businesses to be £1.7 million. Section 5.2 assesses potential ongoing costs and explains that any change in value or volume of CNs would result in an offsetting future impact to the business. The IA also explains that any amounts requested under the CN regime would be deemed as a transfer.	The IA provides a thorough description of the estimated impacts of the measure. The IA has provided sufficient evidence to support the assumption about the small number of expected changes to the number and value of cases following the amendment. The IA estimates an EANDCB of approximately £0.2 million, which is largely attributed to familiarisation costs. The Department do not expect a disproportionate impact on small and micro businesses. The Department has sufficiently assessed the impact of this measure as a non-qualifying regulatory provision for BIT purposes.

Measure	Description	Impact	Quality of Submission
Enhancing the occupational pension schemes' sanctions regime *(Annex C)*	The measure will: - introduce additional deterrents in order to motivate sponsoring employers to comply with legislative and regulatory requirements; - enable TPR to react in a more efficient and proactive way when wrongdoing occurs; and - appropriately punishing unscrupulous sponsoring employers. The measure is intended to strengthen existing sanctions regime by widening the scope of sanctions and increasing the maximum penalties available for not engaging appropriately with TPR or not complying with relevant legislation and regulations. Full details of the proposed changes are outlined in table 1 of the IA.	The amendments are applicable to all private sector DB schemes. In some cases, the proposed changes will also have an impact on occupational DC schemes. For example, with 'non-compliance with information requests.' The IA estimates that a small subset of schemes will be affected as the majority comply with the requirements in the baseline. The number of civil sanctions issued are estimated to be between five and fifty per annum. Familiarisation costs are estimated to be zero on the basis that schemes already have to be familiar with requirements in the baseline. Ongoing costs to businesses are expected to be zero on the basis that monetary impacts associated with deterring wrongdoing and fines issued are not treated as costs.	The IA provides a clear description of the estimated impacts of the measure. The Department also evaluate some possible costs to business arising in the scenario where a sanction or fine is applied by TPR but later successfully appealed. The Department anticipate any net costs associated with sanctions being incorrectly applied as negligible on the basis that the legal system allows for compensation. The IA would benefit from considering any possible additional costs which are likely to arise in the appeals and compensation process. HM Prison Service are estimated to incur some costs from the new criminal sanctions in year one of £26,274 and then £52,548 per annum thereafter. The Department has sufficiently assessed the impact of this measure as a non-qualifying regulatory provision for BIT purposes.

Measure	Description	Impact	Quality of Submission
The Pensions Regulator (TPR) Declarations of Intent *(Annex D)*	The measure will introduce a requirement for sponsoring employers or parent companies of DB pension schemes to make a Declaration of Intent which would be issued to the trustees and shared with TPR. The Declaration will set out information about the transactions and how any detriment to the pension scheme is to be mitigated. The measure intends to reduce risks to DB pension schemes and enable trustees and TPR to take action where necessary to protect the pension scheme. The IA points out that the measure is not intended to stop corporate transactions, but to ensure decision makers also consider the impact of the transaction on the pension scheme. The requirement for a Declaration of Intent will be made through this primary legislation. The content of the Declaration is to be set out in subsequent secondary legislation.	The IA highlights that there are several uncertainties at this stage and provide indicative estimates on the impacts of the proposal. All DB sponsoring businesses (14,000) will have to familiarise themselves with the changes. Familiarisation costs to businesses are estimated to be about £0.71 million. TPR will also incur familiarisation costs which will be assessed at the secondary legislation stage. The Department anticipate ongoing costs to business, which will depend on the content of the Declaration of Intent. The IA provides illustrative figures of these costs and their underlying assumptions in Section 4. For example, in a scenario where there are 285 declarations of intent per annum, the annual cost could be about £1 million. Section 8 of the IA conducts sensitivity analysis on the illustrative figures.	The Department has not been able to monetise an EANDCB at this stage, but the measure is assessed as a qualifying regulatory provision on the basis that after secondary legislation is introduced, the business impacts could exceed £5 million. The IA outlines ongoing costs to business which are 'likely' to occur where a Declaration is triggered: costs of preparing the declaration, costs of assessing the effect of transaction and costs of putting mitigations in place. The scale of these impacts depends on details of requirements to be set out in secondary legislation (for e.g. specific requirements for the Declaration). Pages 7 to 11 of the IA sets out the potential business impacts in full and the Department has committed to apprising an EANDCB at secondary legislation. The RPC looks forward to the Department's submission at that stage, with a view to validating an EANDCB figure for BIT purposes.

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Measure	Description	Impact	Quality of Submission
Requirements for Defined Benefit pension scheme trustee boards to appoint a Chair & submit funding strategy statement *(Annex E)*	The measure will require all DB trustee boards to appoint a chair, prepare and review an annual funding strategy statement (the Funding Statement), and to submit the scheme valuation (the Valuation) to TPR in accordance with requirements to be set out in secondary legislation. The measure intends to: - support good governance; improve trustee decision-making in relation to scheme funding by requiring trustees to explain their approach and how they are complying with legislative requirements; - support collaboration between the trustee board and the sponsor employer; and - enable TPR to enforce a stronger “comply or explain” regime for all DB schemes in relation to scheme funding.	The IA states that all DB scheme businesses will have to familiarise themselves with the new requirements for the Funding Statement, even if they already have an appointed Chair. The total familiarisation cost for the Funding Statement requirements is estimated at £1 million; this is based upon an assumed three trustees per DB scheme. Ongoing costs incurred to businesses are estimated to be £19.5 million per year. Section 5 of the IA and RPC’s opinion (pages 2-4) discuss the anticipated costs and benefits to businesses in greater detail.	The RPC provided a green-rated formal opinion on this measure, which outlined areas that will need to be addressed for the IA at the secondary legislation stage. The Department has monetised the impacts of the proposal where possible and estimated an EANDCB figure of £17.3 million at this stage. The Department states that it will determine the EANDCB more fully when details of the proposal are set out at secondary legislation (page 9 of the IA). The RPC looks forward to the Department’s submission at that stage, with a view to validating an EANDCB figure for BIT accounting purposes.

Measure	Description	Impact	Quality of Submission
Clearer funding standards for Defined Benefit occupational pension schemes – long term destination *(Annex F)*	The measure aims to support clearer funding standards for DB pension schemes. The primary legislation will require trustee boards to: - set a long-term destination (LSD) for the scheme, and - incorporate this into the Statutory Funding Objective. The measure will also give a new primary power to enable key terms (‘appropriateness’ and ‘prudence’) underpinning the strategy to be more clearly defined in secondary legislation. The measure also includes provisions to ensure TPR can enforce the new requirements to set an LSD.	The IA explains that impacts of the measure will be determined by factors set in secondary legislation and the LSD set by the trustee board. The IA provides a high-level assessment of possible impacts and the assumptions underpinning the estimates are outlined in Section 2. The IA estimates familiarisation costs (£1.5 million) and implementation cost to business, which are predicted to be offset by efficiency savings associated with improved clarity of the requirements. There are also expected savings as a result of an improved funding position. The IA explains that a new requirement for trustees to set an LSD is not expected to have a significant impact on schemes and their sponsors who already have an existing obligation to meet their pension liabilities.	The IA provides indicative estimates of the impacts of the measure and estimates an EANDCB of £0.2 million at this stage. The Department have explained that a fuller assessment will be provided at the secondary legislation stage in TPR’s Business Impact Assessment, which will set out the impacts of the measure with more certainty after factors to consider in establishing an LSD are determined. The Department has sufficiently assessed the impact of this measure as a non-qualifying regulatory provision for BIT accounting purposes. The IA would have been improved by providing a clearer narrative as to how this measure relates to the requirements for Defined Benefit pension scheme trustee boards to appoint a Chair and submit funding strategy statement (which is discussed on page 6 of this opinion).

Measure	Description	Impact	Quality of Submission
Introduction of legislative framework for Collective Money Purchase (CMP) occupational pension schemes *(Annex G)*	The measure will introduce a framework in occupational pension provision so that the pensions industry may offer a new type of occupational pension scheme – Collective Money Purchase (CMP schemes). In CMP type schemes, longevity and investment risks are pooled and shared among scheme members. The legislation will amend parts of the Pension Schemes Act to create a new sub-set of money purchase benefits which will allow pooled pension arrangements, provide powers to expound technical aspects of the new regime and provide powers to apply existing pensions legislation. The measure intends to establish a secure regulatory framework within which the pensions industry can create CMP type pension schemes with adequate governance and safeguards in place for members and for employers.	The measure will impact businesses that choose to set up a CMP scheme and they will incur familiarisation, implementation, and scheme running costs. The IA explains the costs and benefits to businesses are not possible to quantify because they depend on the counterfactual of whether a business' employees would in future be enrolled in a DB scheme, a DC scheme or a hybrid scheme. However, the IA presents the case of Royal Mail (RM), who have clear plans to deliver CMP schemes. The counterfactual is assumed to be a DC scheme in this case – where business costs could be higher due to the requirements for more regular CMP scheme revaluation compared to a DC scheme. The measure could provide a wider benefit through improved industrial relations (page 10).	The RPC provided informal advice to the Department on this measure and the IA has been updated to reflect the RPC's advice. The IA has sufficiently explained the difficulties in estimating a counterfactual and level of industry demand for CMP schemes to produce a robust EANDCB estimate. The Department has also provided the RPC with additional analysis which suggests that the potential benefit of improved industrial relations could exceed £5 million in the first instance. The Department has correctly assessed the impact of this measure as a qualifying regulatory provision for BIT purposes but explains that it has not been possible to quantify the impacts on businesses at this stage. The Department will seek to estimate an EANDCB at secondary legislation (page 7). The RPC looks forward to the Department's submission at that stage. The Department expects larger employers to take up the option of offering CMP schemes on the basis that they are more likely to benefit from the economies of scale from pooling the risk of a larger group of employees. The IA also explains that the TPR will collect and monitor data on the uptake of CMP schemes, which will enable the Department to monitor how the first CMP schemes' performance and effectiveness.

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Measure	Description	Impact	Quality of Submission
Pensions Dashboards *(Annex H)*	The measure will introduce necessary powers to enable citizens to securely access all of their pension information online, to support better planning and preparation for retirement by: - bringing together stakeholders to coordinate an industry-led delivery of dashboard(s). - introducing legislation to compel pension providers to make certain data available to members via dashboards. Subsequent secondary legislation will specify the design and implementation decisions; and establish a regulatory framework to implement appropriate and robust controls to protect users.	The proposal will require pension schemes and providers to provide data to the dashboard ecosystem, which will impose a new regulatory burden on the pensions industry. The IA provides illustrative business impacts compared against a counterfactual where the market will not deliver an industry-wide pensions dashboard solution. In the Department's central scenario, implementation costs will vary amongst pension scheme sizes (£12 million for large schemes, £229 million for medium schemes and £30 million for small schemes). Ongoing costs are estimated to be around £475 million over the ten-year appraisal period. However, the IA notes that despite industry engagement, this estimate remains highly uncertain and should be treated as purely indicative.	The RPC provided a green-rated formal opinion of this measure which outlined areas which will need to be addressed at the secondary legislation stage. At this stage, the Department provides a mainly qualitative indication of the likely scale of impacts and is unable to provide a robust assessment in order to validate an EANDCB figure. This is because the level of detail currently available on the expected content of related secondary legislation is insufficient to enable assessment of a robust EANDCB figure at this stage. The RPC looks forward to the Department's submission at that stage, with a view to validating an EANDCB figure for BIT accounting purposes.

Measure	Description	Impact	Quality of Submission
Legislating to help trustees ensure that transfers of pension savings are made to safe and not fraudulent schemes *(Annex I)*	The measure will amend Part 4ZA of the Pensions Schemes Act 1993 to enable changes to be made to the existing statutory right to transfer of pension benefits by scheme members, so that the right to transfer only applies if one of the following conditions regarding the transfer destination is satisfied: - schemes operated by a firm that is authorised and regulated by FCA; or - authorised Master Trusts; or - schemes where a genuine employment relationship between the member and the scheme employer can be established; or - Qualifying Recognised Overseas Pension Schemes (QROPS) in certain circumstances. The measure aims to protect pension benefits by preventing it from being transferred to fraudulent destinations.	The IA estimates that approximately 160,000 transfers take place each year, which could be in scope of the regulation. 55,616 of these transfers are estimated to be subject to checks on earnings and employer link under the new rules of the amendment. Pages 6-10 of the IA estimates the impacts of the amendment on pension providers/schemes, sponsoring employers and members. The estimated cost for this measure in the first year is around £1 million, which is comprised of £463,000 in familiarisation costs, £674,000 in administration costs (£435,000 to providers, £239,000 to employers) and savings to scheme providers of £132,000, in the form of pension charges by members. The subsequent net costs after year one are estimated to be around £543,000 per annum across the ten-year appraisal period.	The IA provides a thorough description of the estimated impacts of the measure. The IA presents useful sensitivity analysis on the underlying assumptions used to estimate the impacts of the amendment. The Department estimates an EANDCB of approximately £0.6 million over the ten-year appraisal period. The Department has sufficiently assessed the impact of this measure as a non-qualifying regulatory provision for BIT purposes. The IA also provides sufficient evidence to support the assessment that the Department does not expect a disproportionate impact on small and micro businesses.

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Measure	Description	Impact	Quality of Submission
Clarification of the coverage of the administration charge definition *(Annex J)*	The Department made a series of regulations in 2015 to protect members of occupational pensions schemes against high and unfair charges, which relied on a definition of 'administration charges', which was contained in Schedule 18 to the Pensions Act 2014. This measure seeks to take a power to require regulations to clarify the intended scope of 'administration charges' to address industry uncertainty. The measure intends to help trustees avoid inadvertent breaches of these measures, by reassuring them and their advisers about the intended scope of the definition.	The Department expects that there will be negligible impact on businesses on the basis that the existing policy has been costed and business impacts are in the counterfactual. The amendment is expected to benefit some pensions schemes and their sponsoring business by reducing uncertainty.	The Department has sufficiently assessed the impact of this measure as a non-qualifying regulatory provision for BIT purposes.

RPC assessment

Classification	Qualifying regulatory provision
EANDCB – RPC validated	Further (update to the present) IA(s) to be submitted at the secondary legislation stage for validation of an EANDCB figure where the EANDCB is, or could be, above *de minimis*[2].
Small and micro business assessment	Sufficient

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[2] Currently there are four measures (Annexes D, G, E and H) as part of the Pensions Bill that are likely to exceed the *de minimis* threshold and will require the RPC to validate the EANDCB for BIT accounting purposes.