



Northern Ireland
Assembly

Committee for Communities

**Report on Legislative Consent
Memorandum on the Pension Schemes
(Conversion Guaranteed Minimum
Pensions) Bill**

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Powers and Membership

Powers

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. 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 inquiries and make reports; and
- Consider and advise on matters brought to the Committee by the Minister of Communities.

Membership

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

Stephen Dunne MLA

[Report on Legislative Consent Memorandum the Pension Schemes (Conversion Guaranteed Minimum Pensions) Bill]

Mark Durkan MLA

Ciara Ferguson MLA

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Background

1. The Pensions Schemes (Conversion of Guaranteed Minimum Pensions) Bill is a Bill to make provision about the amendment of pension schemes so as to provide for the conversion of rights to a guaranteed minimum pension. The Bill is a Private Member's Bill that has the support of the Department for Work and Pensions and is currently before the UK Parliament. It includes provision relating to devolved matters. The Bill was introduced on 16 June 2021 and at the time of writing is at Committee Stage in the House of Commons and expected to progress through Parliament early in 2022.
2. Although pensions is a devolved matter, in general pensions policy and legislation here operate in line with corresponding pension provision in England, Scotland and Wales, in line with section 87 of the Northern Ireland Act 1998. General pensions law is a devolved matter, private pensions are subject to a somewhat complex web of tax law (an excepted matter) and financial services law (a reserved matter).
3. The Guaranteed Minimum Pension (GMP) is the minimum pension that a pension scheme that was contracted out of the additional State pension between 6 April 1978 and 5 April 1997 has to provide to the members of the scheme. However, GMPs that accrued to individuals contracted out between these dates created inequalities between men and women in the overall pensions they receive. This inequality is largely due to the fact that during this period State pension ages for men and women were different leading to different accrual rates and different ages from which GMPs were payable.
4. Pension schemes from the 17 May 1990 (the date of the Barber judgment) have been required to pay equal pensions to men and women for accruals. Following the Barber judgment, the Government's position has been that schemes are required to equalise overall pensions for the effect of inequalities caused by GMPs. This position was endorsed by the Lloyds Bank High Court ruling of October 2018. Schemes therefore have to equalise overall pensions for the effect of inequalities caused by GMPs accrued from this date.

5. The Bill will amend existing GMP conversion legislation and reassure pension schemes that they can use the conversion legislation to equalise overall pensions for the effect of differences between men and women resulting from GMPs.

6. The Pensions Industry has expressed concern that the operation of certain provisions of the conversion legislation are unclear and should be amended to make it easier to use. In particular, the pension industry has expressed concern that existing conversion legislation:
 - Is unclear as to how conversion applies to survivor benefits (the element of a GMP which can be inherited by the member's widow or widowers);
 - Does not provide for circumstances in which the scheme's sponsoring employer no longer exists and therefore cannot consent to a proposed conversion exercise; and
 - Requires schemes to notify HMRC that they have carried out a conversion exercise, even though the introduction of the new State Pension means that HMRC does not need to be informed about changes to GMPs.

7. The Bill will make provision for the following:
 - Clarify that the legislation applies to survivors as well as earners;
 - Provide for a power to set out in regulations the conditions that must be met in relation to survivors' benefits;
 - Provide for a power to set out in regulations detail about who must consent to the conversion; and
 - Remove the requirement to notify Her Majesty's Revenue and Customs (HMRC).

Committee Consideration of Legislative Consent Memorandum

8. The Committee had before it a written briefing from the Department and was also briefed by Departmental officials at its meeting on 2nd December 2021, when the Officials highlighted that subject to Executive approval, it is intended that a Legislative Consent Motion, seeking agreement for the extension to Northern Ireland of provisions in the Pension Schemes (Conversion of Guaranteed Minimum Pensions) Bill relating to the conversion of Guaranteed Minimum Pension (GMP) benefits into other scheme benefits, will be brought before the Assembly.
9. The Committee noted that under the Memorandum of Understanding between central government and the devolved administrations, where Parliament intends to legislate on a transferred matter, it is normal practice for the relevant GB Minister to seek the agreement of the devolved administration.
10. The Officials then briefed Members on the purpose and need for the Bill and the Legislative Consent Memorandum (LCM) as outlined above in the background section and highlighted that the provisions in the Bill, which deal with a transferred matter relate to the GMP conversion provisions in the Pension Schemes (NI) Act 1993 (the '1993 Act') and the Pensions Act (NI) 2008.
11. The briefing highlighted that if the Bill extends to Northern Ireland, this will allow the provisions to be enacted by pension schemes across the jurisdictions at the same time, thus providing legal clarity and certainty for scheme. If it is not agreed, it would be necessary to bring forward a separate Assembly Bill to ensure that parity between the jurisdictions is maintained. However, it was noted that there is insufficient time for an Assembly Bill to be delivered in the current mandate and it would be unlikely that an Assembly Bill could be enacted before 2023. Therefore, the current lack of clarity around the GMP conversion legislation would remain a barrier to pension schemes use of current guidance to equalise benefits between men and women.

12. The Committee raised concerns that the LCM was being presented to the Committee for consideration at a very late stage.
13. The Officials advised Members that although a print of the Bill was available in October, the Bill's second reading in Parliament had only taken place on 26 November. Officials further advised that as the Bill required Government support and was subject to a ballot, it was not feasible for the Department to forward to Committee any earlier.
14. The Committee welcomed that the Bill will amend existing GMP conversion legislation and reassure pension schemes that they can use the conversion legislation to equalise overall pensions for the effect of differences between men and women resulting from GMPs. The Committee therefore welcomed the balancing out of the inequalities between men and women in the overall pensions they receive. However, the Committee asked the Officials if the proposals addressed any of the concerns raised by Women Against State Pension Inequality (WASPI) in relation to changes to state pension age.
15. The Officials informed Members that the Bill was not related to those changes and deals with a range of different issues in connection with GMP Conversion Legislation.
16. The Officials further advised that the Bill deals only with existing conversion provisions in the 1993 Act and that the Bill aims to provide clarity and clear up any perceived uncertainty among pension scheme providers. For example, concerns around the guidance on the methodology for equalisation.
17. Officials added that some pension scheme providers are currently nervous about not taking the right actions without realising it and potentially leaving themselves open to legal challenge.
18. The Officials informed the Committee that the Bill aims to address these concerns within the industry.

19. The Committee sought confirmation on whether any future changes would be made through subordinate legislation, which would be the responsibility of the Department for Communities and the Assembly.
20. The Officials informed Members that, as pensions is a devolved issue, all pension regulations will be brought before the Committee.
21. The Committee expressed concerns over any unforeseen implications if Northern Ireland chose to diverge from Westminster, particularly in relation to the centralised pension scheme.
22. The Officials informed the Committee that regulations presented to the Committee are in draft form and that it is up to the Committee whether it agrees with those regulations. The Officials further added that, in line with section 87 of the Northern Ireland Act 1998, there is, in effect, a single system of pensions across the UK in order to allow for the smooth running of pension schemes.
23. After the discussion with Officials, the Committee was content that the extension of provisions in the Bill to Northern Ireland would enable the required provisions to be enacted by pension schemes across jurisdictions at the same time, thus providing legal clarity and certainty for scheme providers seeking to remove inequalities from their schemes.
24. The Committee noted that if provisions in the Bill were not extended to Northern Ireland, it would be necessary to bring forward a separate Assembly Bill to ensure that parity between the jurisdictions remained.
25. The Committee further noted that there was insufficient time for a separate Assembly Bill to be delivered in the current mandate and that the lack of clarity around GMP conversion would remain a barrier to pension schemes use of current guidance to equalise benefits between men and women.
26. The Committee was content to agree the LCM and to recommend that it is approved by the Assembly.

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