

UK Pensions Stop Press: Pension Schemes Bill to receive Royal Assent

January 2021

What has happened?

The final amendments to the Pension Schemes Bill 2019-21 were approved by the House of Lords on January 19, 2021, and it will now receive Royal Assent.

This has been a long time coming. The Bill received its first reading as long ago as October 2019 but was delayed by political events and the global pandemic.

What has now changed?

Well, in terms of immediately enforceable new laws, nothing ... yet.

The new Pension Schemes Act gives us the necessary framework for a raft of important pensions reforms, including:

- Enhanced powers for the Pensions Regulator, including the much-publicised ability to impose criminal sanctions and penalties of up to £1 million.
- A revised DB scheme funding regime.
- A tightening of the conditions and due diligence needed for statutory transfers in a bid to combat pension scams.
- Requirements for climate change governance.
- The introduction of a pensions dashboard and collective defined contribution (CDC) schemes.

We are now just waiting for the secondary legislation that is needed in order to switch on the relevant provisions of the Act and, for most areas covered by it, to set out the detailed requirements that will sit behind the headline new power or obligation.

So in summary, there have been no overnight changes to the legal requirements that apply to schemes and their sponsors, but the necessary statutory foundation has been laid for the Government's much-debated and long-awaited new measures to become enforceable.

What will happen next and when?

We expect to see different parts of the new Act coming into force at different times, some over the course of this year.

For example, Pensions Minister Guy Opperman has [said](#) that the aim is for the Regulator's new powers to be available for it to use by the autumn. However, we expect this may not include the Regulator's powers to impose criminal sanctions, since the Regulator intends to consult on these specifically, which could mean they only become available later.

Meanwhile in the realm of scheme funding, the Regulator [says](#) that the DWP's consultation on the detailed funding regulations is currently expected "in the first part of this year", meaning the Regulator's second consultation on a revised funding code of practice may happen "in the second half of 2021". In practice this is likely to mean that the revised DB scheme funding regime will not be implemented until 2022.

Is there anything I should be doing now?

For most of the areas covered by the new Act, it's a case of "wait and see" what new requirements will be set out in regulations. For example, trustees should keep a watching brief for the draft transfer regulations and discuss with their administrators and advisers how these will impact their existing transfer processes and member communications.

As regards the Regulator's new powers, although the Pensions Minister has helpfully [confirmed](#) that they will not have retrospective effect, it would be sensible for scheme sponsors and trustees to ensure that they are already keeping a careful paper trail of any decisions they are having to take in relation to corporate activity and that they are considering them with the new regime in mind. This is particularly the case where the situation could evolve to a distressed restructuring. Trustees may also wish to check that their integrated risk management and contingency plans remain suitable and that their current information protocols with the sponsor enable them to react quickly.

In relation to dashboards, although we do not yet know exactly what data will have to be provided and when, minimum data requirements were [published](#) in December. Schemes undertaking data cleansing (e.g. for GMP equalisation projects) could consider these "key data standards" as part of that process to put them in a good position for when the more detailed requirements are published and come into force.

What's next?

Apart from the deluge of new regulations and consultations off the back of the new Act, the Government reportedly aims to publish a second pension schemes bill in this parliament. This is expected to set out legislation to govern DB superfunds.

So we expect 2021 and 2022 to serve up many more new developments in pensions law and regulation, presenting opportunities as well as challenges for trustees and scheme sponsors alike.

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