

Pension Schemes Bill

➤ **Matthew Swynnerton looks at some of the issues covered by the Pension Schemes Bill, which is currently progressing through parliament**

Following the Queen's Speech on 19 December 2019, in January 2020 the Pension Schemes Bill was re-introduced to parliament in substantially the same form as the version that was published in October 2019. This article provides an overview of some of the key areas covered by the bill.

Scheme funding

The bill includes a new requirement for trustees to determine a 'funding and investment strategy', which is a strategy for ensuring that pensions and other benefits under the scheme can be provided over the long term. It also provides that trustees will have to prepare a written statement (referred to as a 'statement of strategy') setting out the funding and investment strategy and reporting on a number of supplementary matters including the extent to which, in their opinion, the strategy is being successfully implemented. The funding and investment strategy will need to be agreed with the employer and the employer will also have to be consulted when the trustees are preparing or revising the supplementary information in the statement of strategy.

The Pensions Regulator's powers

The bill includes a number of provisions in relation to The Pensions Regulator's powers, including: (i) two new grounds for issuing a Contribution Notice (CN) (the 'employer insolvency test' and the 'employer resources test'); (ii) a new criminal offence of failing to comply with a CN without reasonable excuse; (iii) the power to impose a civil penalty of up to £1 million in relation to a failure

to comply with a CN without reasonable excuse; (iv) two new criminal offences (avoidance of employer debt and conduct risking accrued scheme benefits) which carry maximum penalties of seven years imprisonment or a fine or both, and provision so that a civil penalty of up to £1 million could be imposed in these circumstances instead; (v) that the new civil penalty of up to £1 million will apply in relation to failure to comply with the notifiable events legislation; and (vi) provisions on information gathering powers.

Pensions dashboards

The bill makes provision in relation to pensions dashboards, including a power for regulations to be made imposing requirements on trustees of occupational pension schemes to provide, or facilitate the provision of, 'pensions information'. What constitutes 'pensions information' will be prescribed in regulations but the bill states that it may include information as regards the position of an individual in relation to the scheme as well as certain scheme information. Trustees will need to ensure that their scheme's data is ready to be able to comply with these new requirements.

Transfers

The August 2017 response to the December 2016 consultation on pension scams confirmed that the government would proceed with its proposal to limit the statutory right to transfer and the bill enables regulations to be made, prescribing additional conditions that must be met in order for there to be such a statutory right. The bill states that these

additional conditions could include, but are not limited to, conditions about the member's employment or place of residence and providing the trustees with information or evidence about these matters. Once these changes have been made trustees may need to review and update their transfer processes.

Collective defined contribution

The bill establishes a framework for collective defined contribution (CDC) schemes (known in the bill as 'collective money purchase schemes') including that such schemes must be authorised by The Pensions Regulator in order to be able to operate and will have to meet certain criteria in order to become authorised.

Looking ahead

The bill is still progressing through parliament and its provisions are therefore subject to change, and some of the detail is also to come in regulations. The bill contains provisions on some of the key issues that are on the horizon for pensions but there are other developments to come, including further deadlines in the recently-amended legislation in relation to the Statement of Investment Principles, a further court hearing and guidance in relation to GMP equalisation and The Pensions Regulator's consultations on a new DB funding code. Trustees may find it useful to consider whether their work plans need to be updated to reflect any of these upcoming developments.



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