

The Pension Schemes Bill

Was it worth the wait?

More than eighteen months following the Government's DB white paper, the much-anticipated Pension Schemes Bill 2019 has finally arrived.

In this article we explore what the Bill covers, what happens next, and whether in the end it was worth the wait.

What does the new Bill cover?

A lot. But not everything that was expected, as some issues discussed in the white paper have not been covered. The key areas that have made it to the final draft include:

- New powers for the Pensions Regulator
- Funding
- Transfers
- Contribution notices
- Dashboard
- Collective Money Purchase (CMP) Schemes

Here is a whistle-stop tour of three core areas in the Bill.

Regulator powers – what's new?

One of the most highly anticipated changes from the white paper are the Regulator's new powers. Here are some of the key changes you should know about.

Two new criminal offences for which the Regulator can impose a fine of up to £1m. These apply where:

1. recovery of a section 75 debt is intentionally prevented, reduced or compromised without reasonable excuse; and
2. a person should have known their conduct would lead to a risk that accrued benefits would not be received without reasonable excuse.

New financial penalties up to £1m for failing to comply with the notifiable events regime and providing false or misleading information to the Regulator.

New regulatory requirements that give the Regulator power to require people (including professional advisers) to attend interviews and for employers to notify the Regulator of certain events as soon as reasonably practical (these events are yet to be prescribed).

Increased powers of inspection with an expansion of the range of premises liable for inspection.

Funding changes

The Bill introduces important changes to the framework around funding and investment strategies, actuarial valuations and recovery plans.

The Bill creates a new duty for the trustees requiring them to maintain a written statement of their funding and investment strategy. This should include the trustees reflections in relation to significant decisions they have taken and lessons learned for future decision-making.

Actuarial valuations will need to be submitted to the Regulator as soon as possible after the trustees receive them.

New regulations will set out what must be taken into account and principles to be followed when determining whether or not a recovery plan is appropriate. This aims to make it easier for schemes to prepare recovery plans and, in turn, easier for the Regulator to take action when recovery plans fall below the required standards.

It remains to be seen whether the provisions of any new regulations will effectively allow the Pensions Regulator to intervene in relation to scheme funding assumptions without having to demonstrate that the assumptions used lack "prudence". This would make intervention potentially much easier than it is currently.



New conditions for transfers

This is an important one for trustees and administrators. The Bill includes new measures to prevent transfers to “pension liberation vehicles” – these include new conditions that trustees must satisfy before transferring benefits to another scheme.

The new conditions will be set out in regulations and are likely to relate to the nature of the member’s employment and where they live. They may also include requirements for members to provide payslips and bank statements to evidence that they have earnings at least equal to the national insurance lower earnings limit.

What happens next?

While the Bill covers a lot of ground, the mechanics of how the new provisions will work are still uncertain and much of the Bill’s detail will be left to regulations which have yet to be put in place. The DB funding code consultation, originally expected shortly after the Bill, has also now been pushed back until early 2020. This is expected to focus on “fast-track” and “bespoke” approaches to funding, as well as contingency planning and alternative forms of security.

These uncertainties make it hard to determine whether the Pension Schemes Bill has been worth the wait and the current political climate makes it unclear whether the Bill will be a legislative priority over the coming weeks.

For the time being, no action needs to be taken but watch out for developments in the near future.



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