

Pension Schemes Act 2021: the state of play at the end of summer



What you **need to know**

- The Pension Schemes Act 2021 (the Act) received Royal Assent on 11 February 2021. It puts in place the legislative framework for a number of new developments, including the new defined benefit (DB) scheme funding regime, collective money purchase (CMP) schemes, pensions dashboards and measures to combat pension scams. It also introduces new moral hazard powers for The Pensions Regulator (TPR), new criminal offences and civil penalties.
- Some of the new developments introduced affect all schemes, such as pensions dashboards, whereas others will initially only affect some schemes, such as the new climate change governance requirements.
- Since the Act received Royal Assent earlier this year, the Department for Work & Pensions (DWP) and TPR have carried out various consultations on draft regulations and guidance. We know now when some, but not all, of the new developments will take effect; a number come into force on 1 October 2021.



Actions you can take

- Keep the Act on the agenda for trustees' meetings.
- Carry out a gap analysis to identify actions needed as regulations and guidance are finalised.

The Act developments coming into force on **1 October 2021**

Item	Development
Climate change governance and reporting	New governance and reporting requirements for trustees of large occupational pension schemes, authorised master trusts and CMP schemes start to be phased in. The DWP has issued guidance for trustees and TPR is consulting on draft guidance.
New moral hazard powers for TPR	Two new grounds for issuing a contribution notice (CN): firstly if an act, or failure to act, materially reduces the amount of debt the scheme is likely to recover from the employer on (theoretical) insolvency and, secondly, if an act/failure to act materially reduces the employer's resources. TPR is expected to update its code of practice 12, having already consulted on a revised draft.
New criminal sanctions	Actions risking accrued benefits or avoiding a section 75 debt can result in either an unlimited fine, up to 7 years in jail or both. Failure to comply with a CN can lead to an unlimited fine. TPR has consulted on how it will investigate and prosecute the new offences, with the final policy expected to be issued later this year.
New fines of up to £1 million	TPR will be able to impose a civil fine of up to £1m in certain circumstances, including where accrued benefits have been put at risk or a section 75 debt has been avoided.
New information gathering powers	TPR's powers to inspect premises will be extended and it will be given a new power to interview individuals.

The finer detail: State of play of items in the Act as at 24 September 2021

Development	Regulations?	Guidance?	Date coming into force
Climate change governance and reporting	DWP regulations have been finalised	DWP has issued guidance for trustees and TPR is consulting on draft guidance	1 October 2021
New moral hazard powers	DWP regulations have been finalised	TPR has consulted on a revised code of practice 12 but this has not yet been finalised	1 October 2021
New criminal offences/fines	DWP regulations have been finalised	TPR has consulted on how it will investigate and prosecute the new offences	1 October 2021
TPR inspection/interview powers	DWP regulations have been finalised	No guidance is expected	1 October 2021
Restrictions to statutory right to transfer (to combat scams)	DWP consulted on draft regulations earlier in 2021 but they have not yet been finalised	DWP expects regulators to provide guidance to trustees/scheme managers	Currently expected to be autumn 2021
Notifiable events/statement of intent	DWP is currently consulting on draft regulations	TPR is expected to provide further guidance in a code of practice and accompanying guidance	Currently expected to be at some point during 2022
Collective money purchase schemes	DWP consulted on draft regulations earlier in 2021 but they have not yet been finalised	TPR is expected to consult on a code of practice and provide operational guidance	Currently expected to be at some point during 2022
New DB scheme funding rules	DWP is expected to consult on draft regulations later this year	TPR is expected to consult on a new draft code of practice after DWP has consulted on draft regulations	Currently expected to be late 2022
Pensions dashboards	DWP is expected to consult on draft regulations later this year	DWP and/or the Money and Pensions Service may provide standards/specifications/technical requirements	First wave of schemes are expected to be staged in April 2023

For further information, please get in touch with **William Fitchew** or **Caroline Ekins** or speak to your usual XPS Pensions contact.



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