C L I F F O R D

C H A N C E

UK PENSIONS UPDATE: JANUARY 2022

Contents

1. PENSION SCHEMES ACT 2021 – WHERE ARE WE NOW?

Much of the Pension Schemes Act 2021 ("**PSA 21**") is now either in force or partially in force, bringing about a significant change in pensions legislation and providing the Pensions Regulator ("**tPR**") with what is intended to be a more impactful armoury. From a practical perspective, some of the changes will not have an immediate effect on the everyday running of a pension scheme; however, it is expected that trustees, employers and others involved with defined benefit ("**DB**") pension schemes will be considering future projects and transactions carefully and endeavouring to understand the implications of the new legislation, in light of tPR's strengthened powers (such as the new criminal offences, the extension of the Contribution Notice ("**CN**") regime, and information gathering provisions).

We have included a table in the Annex summarising the current status of the legislation regarding the various regulations needed and which provisions are in force for the various key changes made by the PSA 21.

2. TRANSFER REGULATIONS AND GUIDANCE INTRODUCED TO CONTROL SCAMS

On 8 November 2021, the Department for Work and Pensions (the "**DWP**") published its response to the consultation[1] on new transfer regulations in connection with pension scams, together with the final regulations (the "**Transfer Regs**")[2]. TPR has also published some related guidance.

Note, the Transfer Regs have been developed since the version consulted on and, given that they are now in force and apply to statutory transfer requests received on or after 30 November 2021, trustees/administrators will have to act quickly to familiarise themselves with the new (and reasonably complex) requirements.

Key points to note include:

Scope	The Transfer Regs: • impose new conditions which must be met in order for a statutory transfer to proceed (they do not apply to non-statutory transfers under a scheme's rules, although tPR's guidance encourages trustees to consider the same checks when assessing non-statutory transfer requests)

[1] See our UK Pensions Update: June 2021 for further background on the consultation

[2] The Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021

	• apply to transfers where the date of the application / request to make a transfer occurs on or after 30 November 2021
The Conditions	One of two conditions must be satisfied before the transfer can proceed: First Condition: the trustees are satisfied beyond reasonable doubt (which is not defined) that the transfer is to a scheme which is a public service pension scheme, an authorised master trust (on tPR's published list) or an authorised Collective Money Purchase scheme (on tPR's list). Second Condition: applies to transfers to all other schemes not within scope of the First Condition. It has a few different limbs, each of which must be considered and can be broadly summarised as follows: o If the transfer is to an occupational scheme, trustees must seek evidence from the member to establish that there is an "employment link" o If the transfer is to a Qualifying Registered Overseas Pension Scheme ("**QROPS**"), trustees must seek evidence of the "residency link" or, where the QROPS is an occupational scheme, evidence of either the "employment link" or the "residency link" o Trustees must decide that none of the "red flags" are present (where a red flag is identified it will prevent the transfer from proceeding) – red flags include, for example, transfers following unsolicited requests / incentives for the member o Trustees must decide that none of the "amber flags" are present (or if they are present, the member must take pension transfer scams guidance from the Money and Pensions Service ("**MaPS**") and provide evidence of this to the trustees) – amber flags include, for example, unclear or high fees charged by the receiving scheme *NB. If the employment link is not established on the evidence, this does not automatically mean the transfer is blocked. Trustees would then need to consider whether the lack of employment link is a red flag or an amber flag*
Other key information	• Additional requirements apply as to when and from whom trustees/administrators can or should seek information in order to satisfy themselves that either of the conditions has been met • Trustees must inform members about the conditions within one month of receiving a transfer request and must comply with certain disclosure requirements once their decision regarding the transfer has been made within certain timescales • TPR's guidance provides further information on the red and amber flags • Existing requirements for a statutory transfer will continue to apply in addition to the new requirements (e.g. the requirement on a DB to defined contribution ("**DC**") transfer over £30,000 in value to take appropriate independent advice) • The DWP is going to review the Transfer Regs within 18 months to ensure they remain effective

3. TPR'S REVISED CN CODE OF PRACTICE AND REGULATORY CLEARANCE GUIDANCE

TPR's revised version of Code 12 (the "**Code**") relating to CNs came into force on 25 November 2021[3] and replaces the old version (see our UK Pensions Update: June 2021 for further background). This follows tPR's response to its consultation on the revised version of the Code which was published on 29 September 2021. The updated Code has been laid before Parliament for approval.

In connection with its response, tPR has also published updated clearance guidance, which had last been updated in 2010 and the changes in relation to the role of deficit are material.

[3] The Pensions Act 2004 (Code of Practice) (Contribution Notices: Circumstances in Relation to the Material Detriment Test, the Employer Insolvency Test and the Employer Resources Test) Appointed Day Order 2021

Code 12 – Key Points

Despite calls for more practical guidance on the use of tPR's CN power, tPR has remained clear that it will not be providing a comprehensive list of examples where a test is/is not met as this will depend on all the circumstances of the case. However, the final version of the Code includes the following differences to the version consulted on:

- In the list of circumstances in which tPR expects to issue a CN (if reasonable): the example of a weakening of the scheme's creditor position has been amended to refer to a "*significant*" weakening and the example of payments favouring other creditors of the employer over the scheme where no such sums are then due to those creditors has been amended to refer to early redemption or repayments of "*significant*" creditor balances before they are "*contractually due*"; and
- the Code has been amended to make clear that neither the circumstances considered in the Code, nor the examples provided in the code-related guidance, include an assessment of reasonableness.

Some changes have been made to the illustrative examples in the updated Code-related guidance, and include the following new examples:

New examples of events unlikely to be materially detrimental	• Where an employer sells material assets at fair value and retains or reinvests the cash proceeds from the sale • Where the employer covenant is reduced, but remains strong enough to cover the scheme's buy-out deficit with a "*significant margin*" NB. The example about an employer granting first charge security over assets to renegotiate its borrowings with the bank, but engaging with the trustees and providing appropriate mitigation present in the draft guidance, has been removed.
New / revised examples of events likely to be materially detrimental	• A profitable part of the employer's business is transferred to another group company, resulting in a loss of covenant that is "*material*" to the employer's ability to support the scheme (previously the example involved losing half the covenant) • Covenant is provided predominantly by a parent company guarantee and the parent company's ability to stand behind the guarantee is substantially reduced when it is acquired by a private equity fund in a leveraged transaction • Benefits are transferred from scheme 1 to scheme 2 which has a materially weaker employer covenant than scheme 1 • As part of a group restructure, the employer transfers ownership of a substantially profitable company (which provides the majority of its covenant strength) upwards in the group with the consideration owed being settled by way of an unsecured, non-interest bearing intercompany debt with no repayment date. Liquidity constraints within the group call into question whether the intercompany debt would be repayable if required • An employer makes a repayment of an unsecured intercompany loan, before it is contractually due, when it is facing financial difficulty and the scheme has a substantial deficit

Clearance Guidance – Key Points

The updated clearance guidance only applies to tPR's "moral hazard" powers (i.e. its CN and Financial Support Direction powers, with the exception of the new criminal offences). The guidance maintains the position that clearance is only applicable in relation to events that are materially detrimental – i.e. "Type A Events" and broadly replicates the pre-existing examples of employer and scheme related Type A Events and appropriate mitigation. The key change to the guidance is the removal of the concept of assessing material detriment and mitigation as against a scheme's "relevant deficit", with the emphasis now being on a scheme's section 75 deficit. Under the 2010 guidance, an employer-related event would only be a Type A event if the scheme had a relevant deficit and the general rule was that this would be measured on the higher of the scheme's accounting, Pension Protection Fund or Technical Provisions basis. The relevant deficit would only be measured on a section 75 basis where there were going concern issues, the scheme was in wind-up, there was scheme abandonment or in some cases where the event was significantly materially detrimental – this is therefore a material shift in the guidance.

4. DWP CONSULTATIONS - DC CHARGES AND REGULATORY CHARGE CAP

Back in May 2021 the DWP published a consultation on the implementation of a de minimis on the charging of flat fees within DC pension schemes. On 9 November 2021, the DWP published its response (in part) to this consultation with the following main points:

- The DWP is going ahead with the proposal to introduce a £100 de minimis on the flat fee charge for both active and deferred member pots in default arrangements of qualifying schemes used for auto-enrolment, with effect from 6 April 2022.
- The consultation response clarifies that a proportion of a flat fee may be charged provided that proportion does not itself reduce the value of the member's rights to below £100. The draft regulations are also being amended to make this point clear.
- The charge cap guidance is to be updated.
- The DWP is going to respond to the second half of the consultation separately (focused on whether it would be appropriate (in the future) to replace the three current permitted charging structures with a single, universal charging structure).

The DWP also published a consultation on 30 November 2021 on proposed changes to the charges cap that applies to the default funds of DC schemes used for auto-enrolment. The intention is to increase the flexibility trustees have to access a range of assets when investing while protecting members from high charges. The consultation closes on 18 January 2022.

The consultation is focused on two main points. Firstly, it is seeking proposals to change the treatment of fees that are based on the investment performance of the underlying assets so that they do not fall within the charge cap. Broadly, the cap currently prevents schemes from imposing charges of more than 0.75% annually on a member's pot. However, there are some charges which are excluded and therefore not covered by the cap. The proposal is to add to this list of exemptions so that "well-designed performance fees that are paid when an asset manager exceeds pre-determined performance targets" also fall outside of scope. Secondly, it is seeking views on appropriate mechanisms to ensure that member protections are maintained and that this exemption is not abused.

5. TPR AND FCA DISCUSSION PAPER ON VALUE FOR MONEY

On 16 September 2021, tPR and the Financial Conduct Authority ("**FCA**") published a discussion paper on developing a holistic framework to assess value for money ("**VFM**") in all FCA and tPR regulated DC pension schemes (occupational and personal schemes). This was aimed at ensuring these schemes maximise the income pensioners receive at retirement. In this context, VFM means that savers' contributions are being well invested and their savings are not being unnecessarily reduced by high costs and charges.

The proposal is that schemes should provide further transparency around three key elements of VFM:

1.	***investment performance***
2.	***scheme oversight (e.g. member communication, scheme administration and governance)***
3.	***costs and charges***

The purpose of these changes is to work towards a framework that allows industry stakeholders to consistently assess and compare pension schemes' VFM. As a result, trustees and independent governance committees should be able to use the framework to compare their scheme with similar schemes to assess their comparative performance (various ways of achieving this are suggested). Through this framework, scheme oversight bodies, trustees and providers must assess and provide annual reports on these three key elements of VFM.

It is proposed that this framework is backwards (as opposed to forwards) looking in order to enable ease of factual comparison. It would also build on top of the existing requirements and expectations for VFM. The deadline for responses was 10 December 2021 and tPR and the FCA aim to publish feedback on the next steps going forward in 2022.

6. CLIMATE CHANGE GOVERNANCE AND REPORTING – TPR AND DWP GUIDANCE

On 5 July 2021, tPR published a consultation on draft Guidance and an Appendix to their monetary penalties policy to support new statutory requirements on climate change which came into force in October 2021[4]. Under the new requirements, trustees of relevant schemes (broadly authorised master trusts, authorised collective money purchase schemes and larger occupational schemes) must take steps to identify, assess and manage climate-related risks and opportunities and report on what they have done to manage this. These reporting requirements are based on the recommendations in the 2017 report by the Task Force on Climate related Financial Disclosures ("**TCFD**"). The consultation closed on 31 August 2021, and on 16 December 2021, tPR published its final guidance. Note that tPR is also considering whether it is feasible to create a standalone climate change module for the Trustee Toolkit.

Some of the key points to note include:

Guidance	Appendix to Monetary Penalties Policy
The Guidance describes what trustees need to do and report on in their annual climate change (or TCFD) report to comply with the new legislation. TPR is clear that while the example steps given in the Guidance reflect the kinds of steps that it expects trustees to take and report on, they are not exhaustive. However, in response to feedback requesting a wider range of examples on a broader range of topics, tPR amended existing examples consulted on to make them clearer and created new examples (e.g. around scenario analysis and selecting a target). More examples have also been included around funding and employer covenant, and tPR is reviewing its existing covenant guidance, which it intends to consult on in 2022. The final guidance makes clear that climate-related risks and opportunities are to be considered proportionately in the context of other material scheme risks. TPR also clarified that the metrics selected must include an absolute emissions metric, an emissions intensity metric and an additional climate change metric. TPR states that trustees not subject to the new requirements may also wish to follow the guidance in order to "improve the governance and resilience of their schemes in relation to climate change risks and opportunities".	Failure to publish the report attracts a mandatory penalty and tPR has confirmed that its general approach is that all schemes will receive the minimum penalty of £2,500 (the penalty can range up to £5,000 for individuals and £50,000 for corporates). Requests to remove the mandatory penalty were rejected due to the importance that the legislation attaches to the requirement to publish. However, in the final guidance tPR has included additional examples of what constitutes poor governance and the kinds of breaches that may result in a fine. Any discretionary penalties will be approached in the manner set out in the general monetary penalties policy. The amount of the monetary penalty will depend on the persons concerned, band level and any aggravating or mitigating factors. A number of the provisions in the draft regulations state that trustees must take certain steps 'as far as they are able'. TPR explains this means that trustees must take reasonable and proportionate steps, taking into account costs and time commitments. As there is joint and several liability, tPR will look at the actions of the trustees as a whole.

On 21 October 2021, the DWP issued a consultation seeking views on proposals to require trustees of larger occupational pension schemes, authorised master trusts and authorised collective money purchase schemes to calculate and disclose a portfolio alignment metric setting out the extent to which their investments are aligned with the goal of limiting the increase in the global average temperature to 1.5°C above pre-industrial levels (in line with

[4] See our UK Pensions Update: June 2021 for further background on the requirements imposed by the Occupational Penson Schemes (Climate Change Governance and Reporting) Regulations 2021 and the Occupational Pension Schemes (Climate Change Governance and Reporting) (Miscellaneous Provisions and Amendments) Regulations 2021 which came into force in October 2021.

aims of the Paris Agreement treaty). The consultation also seeks views on new guidance in relation to best practice for Statements of Investment Principles and the DWP's expectations on the Implementation Statement.

The proposal is that new regulations will amend the *Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations 2021* which imposed new requirements for trustees of certain schemes to assess and report on the financial risks of climate change within their investment portfolios from 1 October 2021 (see our UK Pensions Update: June 2021) to require trustees within scope of those regulations to calculate and disclose a portfolio alignment metric setting out the extent to which their investments are aligned with the goal of limiting the increase in the global average temperature to 1.5°C above pre-industrial levels. The guidance on the existing requirements would also be amended.

The consultation also seeks to address deficiencies in scheme governance in relation to stewardship and voting by proposing new draft guidance which sets out stewardship and Environmental Social and Governance best practice in relation to the Statement of Investment Principles and DWP's expectations on the Implementation Statement.

The consultation closed on 6 January 2022. The intention is that the amending regulations would come into force from 1 October 2022.

7. CONSULTATION ON REGULATIONS PROMOTING A "STRONGER NUDGE" TOWARDS PENSIONS

The DWP has been consulting on proposed regulations to introduce requirements for individuals to be 'nudged' to obtain appropriate pensions guidance by trustees of occupational pension schemes. The consultation ran from July 2021 and closed on 3 September 2021. The draft regulations proposed require the trustees of relevant schemes to ensure individuals seeking to access their pension benefits have received, or opted out of receiving, appropriate guidance. Key points to note include the following:

- **Who receives the nudge?** – members aged 50 or above who contact a scheme to request to access their pension benefits or to transfer those benefits with the intention of accessing their pension flexibilities (a "Relevant Beneficiary").

- **When do they receive a nudge?** – when an application to access or transfer pension benefits is received by the trustees from a Relevant Beneficiary. There is no definition of 'application' – this is to allow schemes to decide when the process is triggered (however, this should generally be as early on as possible in the process).

- **Action required by the trustees?**
  - Offer to book a pensions guidance appointment on the Relevant Beneficiary's behalf. If the Relevant Beneficiary takes up this offer, the trustees should book this for them. Where a Relevant Beneficiary wishes to book an appointment themselves, trustees should provide them with details of how to book it.
  - Tell the member that they cannot proceed with the application unless they have received and notified the trustee of receipt of pensions guidance or given an opt-out notification.
  - The opt-out process must be done through a separate, active communication with the trustees if a specified exemption does not apply.
  - Where the member contacts the trustees after they have offered to book them an appointment and has not yet opted out or confirmed that they have received guidance, the trustees should offer to book them an appointment again or reiterate the opt out procedure.
  - Trustees will be required to keep adequate records of this process, including when they nudge members, if members take pensions guidance or if they opt out.
  - Exemptions:
    - individuals who have received Pensions Wise guidance within the last 12 months or financial advice on the proposed transaction; and
    - individuals who are applying to access their pension benefits as a serious-ill health lump sum.

  There is no proposed exemption for small pots.

The FCA has a corresponding duty to implement section 18 of the Financial Guidance and Claims Act 2018 covering personal pension schemes (contract-based pension schemes) (see our UK Pensions Updates Update June 2021). On 1 December 2021, the FCA published its final rules and guidance which affected firms must comply with by 1 June 2022.

8. INCREASE IN NORMAL MINIMUM PENSION AGE – CONSULTATION RESPONSE PUBLISHED

The response to the Normal Minimum Pension Age ("**NMPA**") increase consultation (discussed in our UK: Pensions Update - March 2021) has now been published and accompanying draft legislation has now been set out within the Finance Bill 2021-2022. It is expected these changes will come into force on 6 April 2028.

Protection of existing scheme rights	Members of registered pension schemes who had an existing, 'unqualified right' under their scheme rules as at 11 February 2021 (the date of the consultation) and immediately before 4 November 2021 to take pension benefits earlier than age 57 will be protected from the increase to the NMPA. This means they can retain their pre-existing minimum pension age. ➢ Members had an 'unqualified right' if they did not need the consent of any other person (such as an employer or trustee) before they could take their benefits at an age of less than 57. This protection is specific to the individual as a member of that particular scheme – it will not apply to the same individual in another scheme who does not have this existing right. ➢ This protection will also apply where an individual joining a scheme between 11 February 2021 and 4 November 2021 had the unqualified right immediately before 4 November 2021, and whose scheme rules (as of 11 February 2021) already conferred an unqualified right (which the individual would have had, had they been a member on 11 February 2021) to take pension benefits below age 57. ➢ The 'retirement condition' which applies to those with a protected pension age regarding the increase from age 50 to 55 in 2010 will not apply to this protection regarding the increase to age 57. ➢ Individuals who benefit from this protection will not be required to crystallise all their benefits under the relevant scheme at the same time. ➢ The PPA will be retained on a transfer (this includes **both individual and block transfers**). ➢ There will be no need to apply for protection, it will apply automatically.
Impact on previous protected pension ages	Individuals who have an existing protected pension age will see no change in respect of their current protections.
Exemptions	As consulted on, the increase in NMPA will not apply to members of the armed forces, police and fire service pension schemes (the specific schemes are listed in the draft legislation and the government response).
Legislation and guidance	➢ The amendments are legislated for in the Finance Bill 2021-2022, which will amend the Finance Act 2004 and Income Tax (Earnings and Pensions) Act 2003. ➢ HMRC published a consultation on draft clauses for the Finance Bill 2021-2022, including provisions which will increase the NMPA. The consultation closed on 14 September 2021 and the Finance Bill 2021-2022 was published on 4 November 2021; it has completed its second reading in the House of Commons and will now move to committee stage. ➢ The Government will provide further advice on the proposed transitional arrangements and provisions 'in due course'.

9. SIMPLER DC ANNUAL BENEFIT STATEMENTS

On 19 October 2021, the government published its response to the consultation on introducing simpler annual pension benefit statements for DC auto-enrolment schemes (see our UK: Pensions Update - June 2021 for further details). This is accompanied by updated guidance and regulations. No material changes to the proposals consulted on were made with the exception that the commencement date has been moved from 1 April 2022 to 1 October 2022 and the regulations have been re-named "*The Occupational and Personal Pension Schemes (Disclosure of Information) (Statements of Benefits: Money Purchase Benefits) (Amendment) Regulations 2021*". While the regulations will only apply to DC only automatic-enrolment schemes, it's the Government's aim to extend these requirements more widely.

10. KEY CASES

1. ***Mitchells and Butlers Pension Rectification Case***: on 12 November 2021, the High Court handed down judgment in favour of the trustees of the Mitchells & Butlers Pension Plan following a three-week trial, ruling that a modification of pension increase provisions made by a 1996 deed was invalid and of no effect. A key point in the ruling was that the judge found that the scheme's actuaries were not properly consulted in respect of certain changes made by the 1996 deed, despite his considering that "*valid consultation [was] a condition precedent to the effectiveness of that aspect of alteration*."

2. ***DWP v Hughes, Appeal Judgment***: on 19 July 2021, the Court of Appeal published its judgment on the appeals of the Pension Protection Fund ("**PPF**") and DWP following the High Court's decision in the *Hughes*[5] case (see our UK: Pensions Update - June 2020). The Court of Appeal held that the PPF's one-off actuarial calculation approach to increasing compensation is lawful, but that the imposition of the compensation cap constitutes unlawful age discrimination.

11. PENSIONS ROUND UP: STATUS UPDATES

- ***Approval for RPI Hearing***: A statement from the trustees of the BT Pension Scheme announced on 22 December 2021 that the trustees of the BT Pension Scheme, Ford Pension Schemes and Marks and Spencer Pension Scheme have been informed that their application for a judicial review of the decision to effectively replace RPI with CPIH from 2030 has been granted. The hearing is expected to take place in the summer of 2022.
- ***Approval of First DB Consolidator****:* on 30 November 2021, tPR announced that Clara-Pensions was the first DB superfund to be listed on its online superfunds webpage as having passed tPR's rigorous standards of governance and administration (see our UK: Pensions Update – December 2020 for further details).
- ***Single Code of Practice Delay***: tPR has published its interim response to the consultation on the new single Code of Practice stating it needs more time to fully consider the responses received. There is no final publication date but it is not expected to lay the new Code in Parliament before spring 2022. As such, the Code is unlikely to become effective before summer 2022. For details on the background to the consultation see our UK: Pensions Update - March 2021.
- ***Second State Pension Age ("SPA") review:*** on 14 December 2021 the second SPA review was launched. The current SPA will increase from age 66 to 67 for those born on or after April 1960 between 2026 and 2028, and to 68 between 2044 and 2046 for those born on or after April 1977. The latest review will consider whether the increase to age 68 should be brought forward, as well as generally considering whether the rules around pensionable age are appropriate, based on the latest life expectancy data and other evidence. The review must be published by 7 May 2023.

[5] *Hughes and others vs. The Board of the PPF and the Secretary of State for Work and Pensions* [2020] EWHC 1598

ANNEX

New offence	Relevant Section(s)	In force?	Other information
Changes to the notifiable events regime	Sections 108 and 109	Section 108 is in force. Section 109 is partially in force	Further changes are anticipated in this area with the intention of creating a two-step notification process for certain events. The consultation on these draft regulations closed on 27 October 2021, and the final regulations are expected to come into force on 6 April 2022. See our UK: Pensions Update – Special Edition for further details. Section 109(1) and (3) have not been brought into force. Section 109(2) came into force on 31 May 2021 for the purpose only of making regulations but has not otherwise been brought into force.
Extension of Contribution Notice regime	Sections 103 to 106	Sections 103, 105 and 106 are in force. Section 104 is partially in force	The two new contribution notice tests (the employer insolvency test and the employer resources test) are now in force. The Pensions Regulator (Employer Resources Test) Regulations 2021 which relate to the new "employer resources test" ground on which tPR can issue a CN came into force on 1 October 2021. TPR's revised Code 12 relating to CNs was brought into force on 25 November 2021 by The Pensions Act 2004 (Code of Practice) (Contribution Notices: Circumstances in Relation to the Material Detriment Test, the Employer Insolvency Test and the Employer Resources Test) Appointed Day Order 2021. Section 104(2) has not been brought into force.
New criminal offences with 7-year custodial sentences	Section 107	Yes	This came into force on 1 October 2021. Following the consultation earlier this year, tPR published the new criminal offences policy on 29 September 2021. There are three further policies expected which will deal with how it intends to approach overlapping powers, the imposition of fines and its information gathering powers. TPR has published these draft policies for consultation which closes on 22 December 2021.
Extended information-gathering powers	Sections 110 to 112	Sections 110 and 112 are in force. Section 111 is partially in force	Section 111 amends the range of premises that tPR can enter for the purposes of an inspection. For an inspection to take place tPR must be investigating compliance with listed legislative provisions. Subsection (2)(a) of section 111 adds the Pension Schemes Act 2017 to that list and was brought into force on 1 October 2021. Section 111(2)(b) which adds Part 1 of the PSA 21 (collective money purchase benefits) to that list but has not yet been brought into force. Subsections (3)–(7) which provide for various rights for tPR in connection with carrying out inspections of premises came into force on 1 October 2021.

£1M civil financial penalties and other new offences	Section 115	Yes	TPR's new powers under section 88A of the 2004 Act came into force on 1st October 2021.
Changes to scheme funding legislation	Schedule 10	Partially in force	The provisions that confer a power to make regulations came into effect on 11 February 2021. TPR announced in December 2021 that a consultation on the draft regulations is expected to be published in Spring 2022. A second consultation on the draft DB Funding Code of Practice will be launched in the late Summer of 2022.
Climate related disclosures	Section 124	Yes	Draft guidance from the DWP and tPR has been published. Finalised tPR guidance was published on 16 December 2021. DWP has also published revised draft regulations and draft guidance.
Right to a cash equivalent transfer value	Section 125	Yes	Section 125(2) and (6) came into force on 31 May 2021 for the purpose only of making regulations. The Pension Schemes Act 2021 (Commencement No 4) Regulations 2021, brought into force section 125 of the Pension Schemes Act 2021 for all remaining purposes on 30 November 2021. TPR published guidance on dealing with transfer requests on 30 November 2021.
Collective Money Purchase Schemes	Sections 1 to 102 and Schedules 1 to 6	Sections 1 to 102 are partially in force Schedules 1, 2, 4 to 6 are not yet in force Schedule 3, paras 1 to 10, 12, 14 to 22 are not yet in force. Para 11 is partially in force. Paras 13, 23 to 25 are in force	Parts 1 and 2 (Sections 1 to 102) came into force on 11 February 2021 for certain purposes relating to regulations but have not otherwise been brought into force. The Pension Schemes Act 2021 (Commencement No 5) Regulations 2021 brought into force on 13 December 2021 several provisions relating to the new framework to establish and operate CMP schemes. Two sets of finalised draft regulations were published in December 2021: • The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 was laid before Parliament on 15 December 2021 and, subject to Parliamentary approval, will come into force on 1 August 2022. • The Occupational Pension Schemes (Collective Money Purchase Schemes) (Modifications and Consequential and Miscellaneous Amendments) Regulations 2022 are intended to be laid before Parliament in February 2022, also to come into force on 1 August 2022.

Establishment of Pension Dashboards	Sections 118 to 122	Partially in force	Part 4 (Sections 118 to 122) came into force on 11 February 2021 for certain purposes relating to regulations but has not otherwise been brought into force. The aim is to consult on proposed regulations concerning pensions dashboards later in the year and lay draft regulations before Parliament in 2022. These will most likely come into effect during 2023. An update report from the PDP published in October 2021 stated that seven providers had signed up to be part of the testing phase, starting in December 2021. A develop and test phase will run through to Summer 2022.

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