

Changes coming into force on and from 6 April 2016

Alert | 23 March 2016



Introduction

In yet another busy year for pension schemes, the tax rules (see our [Alert](#)) are not the only things changing on and from 6 April 2016. A host of other reforms will also come into effect from that date.

Key points

On and from 6 April 2016:

- subject to certain exceptions, bans on member-borne commission and the use of active member discounts ("AMDs") will come into force in respect of members of occupational pension schemes which provide DC benefits and are used for automatic enrolment ("Relevant Schemes")
- contracting-out on a DB basis will be abolished as a consequence of the introduction of the single-tier state pension
- corporate trustees must comply with the "persons with significant control" ("PSC") regime
- trustees will be required to send members "retirement risk warnings" at the point at which they provide them with the means (such as an application form) to access their benefits.

Ban on member-borne commission

Service providers (persons who provide an administration service directly to a scheme's trustees or managers) will be prevented from levying a charge on members (active or deferred) of Relevant Schemes in order to recover the costs of commission payments made to advisers for certain advice or services. The ban will also apply to AVCs where these are used to provide money purchase benefits in Relevant Schemes.

Initially, the ban will only apply to commission arrangements entered into on or after 6 April 2016. However, any arrangements which are already in existence on 6 April 2016 will be caught if they are varied or renewed on or after that date. Once a scheme is covered by the ban it will remain so, even if it stops being used for auto-enrolment. This aims to ensure that, once a member is protected by the ban, they will remain so and is consistent with the approach taken with the default fund charge cap (see our [Alert](#)).

The Government intends to consult later in 2016 on regulations in respect of existing commission

arrangements.

For further details, please see our [Alert](#).

Ban on AMDs

With effect from 6 April 2016, it will be unlawful for trustees to impose, or permit to be imposed, on a deferred member of a Relevant Scheme a higher rate or amount of charges than they would have been subject to had they been an active member.

The ban will apply to a member of a Relevant Scheme who has contributed to the scheme, on or after 6 April 2016, whilst a worker of the employer who is using the scheme for the purposes of automatic enrolment.

It will still be possible for employers to pay or subsidise the payment of charges for their current employees as part of their benefit package, provided that the total charge level imposed is the same for active and deferred members.

Abolition of DB contracting-out

As a result of the introduction of the new single-tier state pension, DB contracting-out will be abolished with effect from 6 April 2016.

With only weeks to go, issues which may still be on trustees' and employers' agendas include:

- whether and, if so, how to amend the scheme with effect from 6 April 2016 to deal with the loss of the National Insurance rebate (employers have until 5 April 2021 to use the statutory modification power)
- the need to inform affected members as soon as possible and, at the latest, by 6 July 2016 that the scheme will cease / ceased to be contracted-out on and from 6 April 2016
- registering with HMRC's scheme reconciliation service before 5 April 2016.

For further information, please see our Alerts: [Abolition of DB contracting-out: statutory modification power](#); [Countdown to abolition of DB contracting-out: Tricky issues](#); [Employers: Countdown to the abolition of DB contracting-out](#) and [Trustees: Countdown to the abolition of DB contracting-out](#).

PSC regime

Background

From 6 April 2016, most companies will be required to identify and record the people or legal entities that own or control them (known as "PSCs") in a PSC register. While the aim of the PSC register is to increase transparency over who owns and controls UK companies, there is no exemption for corporate trustees.

For an individual to be a PSC, they must meet one or more conditions. For example, they must hold, directly or indirectly, more than 25% of shares in the company, or hold, directly or indirectly, more than 25% of voting rights in the company. Different rules apply where a company is owned or controlled by another entity (such as a parent company) instead of an individual.

A legal entity's details must be recorded on the PSC register if it is both "relevant" and "registrable" in relation to the trustee company.

A legal entity is relevant in relation to a company if it would have come within the definition of a PSC if it had been an individual (see above) and it is “subject to its own disclosure requirements” (for example, it is required to keep its own PSC register or is a listed company in the UK).

Broadly, a relevant legal entity (“RLE”) is registrable in relation to a company if it has either a direct interest in the company, or an indirect interest through another company which is not an RLE.

Trustee company action

A trustee company must take reasonable steps to find out whether it has any PSCs or registrable RLEs. If the information for the PSC register is not received before 6 April 2016 (when the requirements come into force), the trustee company must record that it is still in the processing of determining whether it has persons or entities who or which are in scope. Sample wording is set out in Annex 2 of the [“Guidance on the register of people with significant control”](#).

For further details, please see our [Alert](#).

Retirement risk warnings

Since 6 April 2015, when the new retirement flexibilities became available, there have been concerns about the disparity between the information requirements for occupational pension schemes and contract-based schemes.

TPR encourages trustees to provide individuals with generic risk warnings (for annuities, flexi-access drawdown, taking cash in stages, and taking the cash in one go) when they make a final decision to either take their benefits or transfer to another scheme or provider. There are also certain disclosure requirements which trustees must meet, such as signposting Pension Wise (see our [Alert](#)).

In contrast, since April 2015 providers must ask members about specific aspects of the circumstances that relate to the decision they are making about their pension pot (including health and lifestyle choices or marital status) and provide tailored risk warnings (such as warning of the tax implications of their decisions) in response. This is known as the “second line of defence”, the theory being that it will lead people to take a moment’s pause before they choose their retirement options.

With the aim of levelling the playing field, on and from 6 April 2016, trustees will generally be required to provide members with:

- a generic “retirement risk warning” at the same time as the member is given the means to apply to access their benefits (this may be when they are informed of their retirement options or subsequently). Broadly, this is a statement that sets out the characteristic attributes and features of an annuity, lump sum and drawdown pension and the factors that have the potential to affect the appropriateness of these options for a member. Such factors include the impact of health status and lifestyle choices, whether a member has dependants, is in debt or is in receipt of means tested benefits, and
- a statement that asks the member to note the importance of reading the retirement risk warning and accessing pensions guidance or independent advice.

Trustees who choose to provide more personalised risk warnings to members, in line with FCA requirements, will not have to send generic retirement risk warnings as well.

How can we help?

Trustees and employers must ensure that their schemes are ready to meet the above requirements.

If you would like more information or advice on any of the above, please speak to your usual Sackers' contact.

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