

Hot topic

January 2022

New reporting requirements



Sponsoring employers and trustees of defined benefit (DB) schemes are already required to notify the Pensions Regulator (TPR) of certain events. Draft regulations expanding the existing notifiable events regime have been consulted on and are currently expected to come into force in April 2022.

Since 1 October 2021, failure to comply with the existing or new notifiable events framework – without a reasonable excuse – is punishable by a penalty of up to £1 million, up from £5,000 for individuals and £50,000 for corporates.

This note is based on the current draft regulations, but it is possible that the regulations may change following feedback on the consultation.

New notifiable events

As currently drafted, the new notifiable events are:

Sale by a sponsoring employer of a “material proportion” of its business or assets

A sale representing more than 25% of its annual revenue or gross assets

Either on its own or when combined with other disposals decided upon or completed in the previous 12 months

Granting of security

The grant or extension of a “relevant security” which would rank ahead of the pension scheme

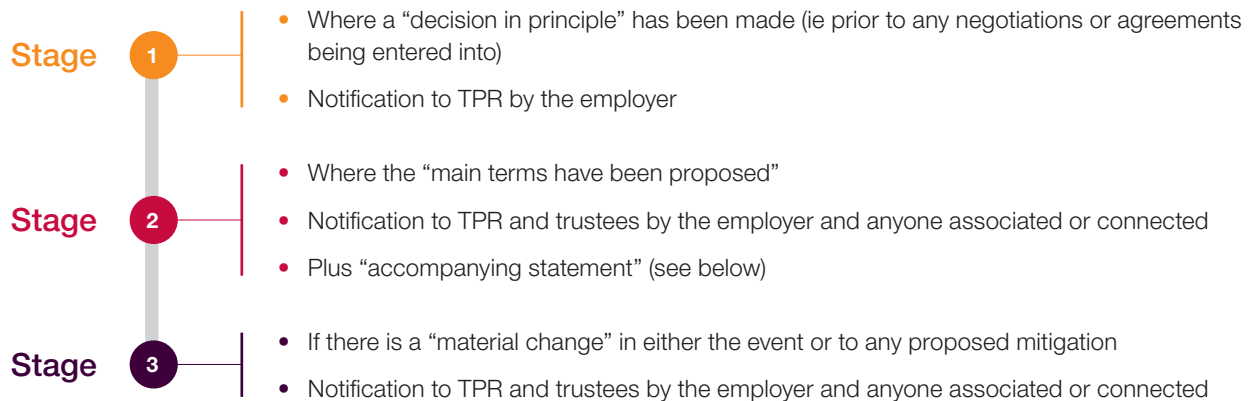
By a sponsoring employer, or one or more subsidiaries of that employer comprising more than 25% of the sponsoring employer’s consolidated revenue or gross assets

A “relevant security” includes a fixed or floating charge, as well as a floating charge giving the charge-holder the right to appoint an administrator

New reporting requirements cont.

New staged approach

A new staged approach has been proposed for the new notifiable events. The new staged approach will also apply where the employer is a company and control of that company is intended to be or is actually relinquished. (Change of control is an existing notifiable event.)



Accompanying statement

Under the draft regulations, the accompanying statement required in stage 2 must include a description of:

- ✓ the event itself
- ✓ the main terms proposed in relation to the event
- ✓ any adverse effects of the event on (i) the pension scheme or (ii) the sponsoring employer’s ability to meet its legal obligations to support the scheme
- ✓ any steps taken to mitigate those adverse effects
- ✓ any communication with the trustees about the event

Next steps



Whilst the drafting of the regulations could change, the upshot of the new requirements is that certain corporate plans will need to be shared with TPR and trustees at a much earlier stage. Compliance with the new requirements should therefore be added to the beginning of a transaction plan and reviewed regularly. Parent companies should also take note, as they may be the only party in a position to notify in certain situations.

The “accompanying statement” is intended to generate greater communication between the employer and trustees on how the event may impact the scheme.

TPR has confirmed it will provide more information on the new notifiable events regime in its code of practice and accompanying guidance.

