

Pension Schemes Act 2026 – Virgin Media remedy

May 2026

Provisions in the [Pension Schemes Act 2026](#) (“the Act”) aimed at addressing issues arising from the Virgin Media case came into force on 29 April 2026.

Background

- With effect from 6 April 1997 until contracting-out on a DB basis ended on 6 April 2016, contracted-out schemes had to satisfy an overall quality test called the reference scheme test (“the RST”) in relation to contracted-out rights known as “section 9(2B) rights”.
- Alterations which affected benefits relating to section 9(2B) rights could only be made where certain requirements were met (“the Requirements”). The Requirements included written actuarial confirmation that, if the alteration were made, the scheme would continue to meet the RST (“the s37 Confirmation”).
- In Virgin Media, confirming the High Court’s earlier [decision](#), the Court of Appeal [held](#) that, where the Requirements applied, an amendment made without a s37 Confirmation would be void.
- The Act gives pension schemes the ability to validate certain affected amendments retrospectively.

The remedy

1 What’s in scope?

A purported amendment will be “potentially remediable” if:

- the alteration could not be made unless the Requirements (as they stood at the time) were met
- the scheme trustees or managers treated the amendment as valid
- no “positive action” has been taken by the trustees or managers on the basis that they consider the alteration to be of no legal effect due to its non-compliance with the Requirements, and
- it is not otherwise excluded from the scope of the remedy.

2 What is “positive action”?

Trustees or managers will have taken “positive action” where, broadly, they have given any scheme members written notification that:

- they consider an alteration to be void (for non-compliance with the Requirements) and the scheme will be administered on that basis, or
- they are taking (or have taken) any other step in relation to the scheme’s administration in consequence of their considering an alteration to be void, which has (or will have) the effect of altering payments to or in respect of scheme members.

3 Other exclusions

An alteration will also be excluded from the scope of the remedy if any question regarding its validity in relation to the Requirements:

- has been determined by a court before the remedy came into force in qualifying legal proceedings
- was in issue on or before 5 June 2025 (the date the Government announced the remedy) in qualifying legal proceedings, but was settled by agreement between the parties at any time before the remedy came into force
- was in issue on or before 5 June 2025 in qualifying legal proceedings and remained in issue when the remedy came into force.

Broadly, “qualifying legal proceedings” means UK court proceedings for the determination of a dispute as to the rules of scheme, where the parties are (or include) the trustees or managers of the scheme and one or more scheme members or other beneficiaries (or a person acting on their behalf).

4 Conditions which will need to be met

A potentially remediable alteration will be treated as valid if the following conditions are met:

- the trustees or managers write to the scheme actuary asking them to consider whether or not, on the assumption that it was validly made, the alteration would have prevented the scheme from continuing to satisfy the RST, and
- the scheme actuary provides the trustees or managers with written confirmation that, in their opinion, it is reasonable to conclude that, on the assumption it was validly made, the alteration would not have prevented the scheme from continuing to satisfy the RST.

The scheme actuary can be the current actuary appointed to the scheme or, if there is no such person appointed, another actuary appointed for this purpose.

5 Special cases

Where a scheme fully wound up or transferred into the PPF or FAS before 29 April 2026, any potentially remediable alteration will be treated as having met the Requirements and, as such, as having always been valid for those purposes.

Next steps



Now the remedy is in force, trustees and managers should decide whether and, if so, when to check their scheme's section 37 compliance.

In terms of timing, in its **guidance** on using the remedy TPR states that trustees "should agree a practical and realistic timescale for the work" with their actuary, according to their scheme's specific circumstances. "For example, it may be beneficial for schemes that are starting a buy-out process to proceed with the remediation work urgently, while others may adopt a timetable that is most efficient and cost effective for them". Trustees should also discuss timing with the sponsoring employer as it may have views on when the work should be carried out.

The Act does not give a deadline for using the remedy so trustees may decide not to proceed with remediation work immediately. However, TPR reminds trustees that they "should ensure that document retention policies will not cause the destruction of relevant records until the matter can be resolved."

When making a decision on whether to use the remedy, TPR advises trustees to consider the circumstances impartially and take account of all the relevant facts. In particular, they should weigh up the cost / benefit of devoting resource to tracking down evidence of past certification versus assuming there was no certification and moving directly to remediation.

