

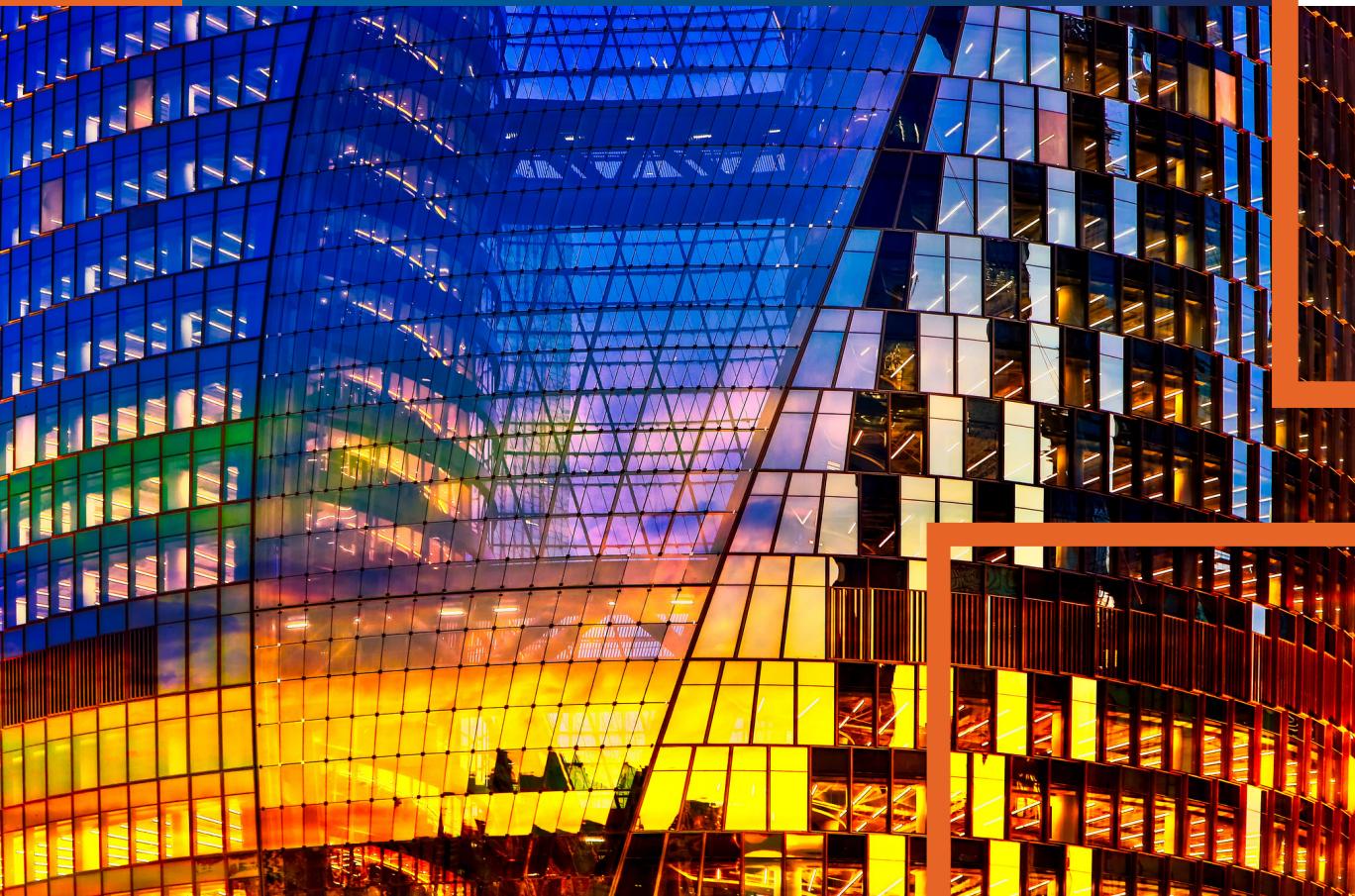
International Comparative Legal Guides

Workplace Pensions 2026

A practical cross-border resource to inform legal minds

First Edition

Contributing Editors:
Wendy Hunter & Claire Dimmock
Squire Patton Boggs (UK) LLP



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Q&A Chapters

1 Argentina

Rodrigo Solá Torino, Martín Emiliano Guala & Rodrigo Mora Pereira, Marval O'Farrell Mairal

7 Australia

Joanne Dwyer, Adam Salter & Tristan Seymour, Jones Day

16 Belgium

Jan Proesmans & Stan Bruurs, Stibbe

22 Brazil

Cristiane I. Matsumoto, Lucas Barbosa Oliveira & Yuri Forsthuber Alandia, Pinheiro Neto Advogados

30 Chile

Carla Karzulovic, Rocío Véliz & Constanza Trisotti, Della Maggiora Eyzaguirre abogados laborales

37 Denmark

Michael Møller Nielsen, Julie Flindt Rasmussen, Anna Lindencrone Lundin & Liw Christensen, Lund Elmer Sandager

43 Germany

Christian Betz-Rehm, Dr. Brigitte Huber, Thomas Bader & Philipp A. Lämpe, maat Rechtsanwälte Späth und Partner PartGmbB

48 Ghana

Cleopatra Nsiah Nketiah, Edward Boateng-Addo, Mary Gwendoline Boadiwaa Ackabah & Naa-Kai Ashrifie, Boateng-Addo, N. Nketiah & Associates (BANN & Associates)

55 India

Suma R.V. & Aniket Chowdhury, Kochhar & Co.

62 Ireland

Eleanor Cunningham, McCann FitzGerald LLP

68 Isle of Man

Annemarie Hughes, Rachel Winterbach, Jessica Garry & Greg Jones, DQ Advocates Limited

74 Netherlands

Sijbren Kuiper, Daan Horsthuis, Pauline Bakker & Carlijn Gerritsen, Van Doorne

83 United Kingdom

Wendy Hunter & Claire Dimmock, Squire Patton Boggs (UK) LLP

United Kingdom



Wendy Hunter



Claire Dimmock

Squire Patton Boggs (UK) LLP

1 Statutory Pension Rights and Obligations

1.1 What are the main sources of law governing workplace pension provision?

UK pensions law derives from multiple sources; being trust law, case law (decisions of the courts) and legislation. UK pensions law is constantly evolving, and it can be very political. The Department for Work and Pensions has primary responsibility for regulating workplace pensions, but HM Treasury also has an interest because of the generous tax reliefs that are afforded to workplace pension schemes that are registered with HM Revenue and Customs (**HMRC**).

Key pensions-specific legislation can be found in the Pension Schemes Act 1993, Pensions Act 1995, the Pensions Act 2004, the Pensions Act 2008 and the Pension Schemes Act 2021, all of which are supplemented by regulations.

Data protection legislation and tax legislation are also relevant in the governance of workplace pensions.

The UK Pensions Regulator¹ (**TPR**) and Pensions Ombudsman also play important roles. TPR publishes codes of practice and guidance, which pension trustees and employers should have regard to. The Pensions Ombudsman hears pension disputes relating to workplace pension schemes. Determinations by the Ombudsman are not binding in relation to future disputes, but they help inform the way that the Ombudsman or courts might determine similar issues.

1.2 What government or other bodies are responsible for regulating workplace pension arrangements?

TPR is the main body responsible for regulating workplace pensions.

TPR has wide-ranging powers.² These include the power to replace pension trustees, disqualify trustees and wind up plans. The most stringent powers relate to “anti-avoidance” and include the use of criminal sanctions in the case of the offences of “avoidance of employer debt” and “conduct risking accrued scheme benefits” in relation to defined benefit (**DB**) workplace pensions.³ These offences carry maximum penalties of up to seven years in prison or an unlimited fine.

TPR has power to require (from any employer, trustee or adviser) the disclosure of information and documents that are relevant to it in the exercise of its powers.⁴ Failure to comply with such a request is a criminal offence and can lead to a fine and/or imprisonment.

TPR also has the power to issue financial penalties of up to £1 million for certain acts/failures to act, such as providing TPR or pension trustees with false or misleading information.⁵

2 State Pension Provision

2.1 Are employers required to contribute to their employees' state pension entitlement? At what rate?

Employers are required to make National Insurance contributions towards an employee's state retirement pension. The employer rate of National Insurance contributions in respect of the tax year 2025/26 is 15% of an employee's earnings above £5,000 per year.

2.2 Broadly, how much is the state pension compared to average earnings?

The state pension represents broadly 39% of average earnings. The full rate of the new state pension (which is payable in respect of people who reached state pension age on or after 6 April 2016) is £11,973 for 2025–26.⁶ This can be compared with annualised average earnings of broadly £30,816.⁷

2.3 What is state pension age? Is it possible to start taking state pension before or after this age? Is it possible to continue building up a workplace pension after reaching state pension age (or starting to take state pension, if earlier)?

The state pension age is currently age 66, increasing to age 67 between 2026 and 2028 and to age 68 between 2044 and 2046. This is subject to review every six years.⁸ A person may not take their state pension earlier than their state pension age, but they may defer taking it, in which case it will be increased for late payment.⁹ A person may continue to build up a workplace pension after reaching state pension age.

2.4 Is it compulsory for employers to provide workplace pensions in addition to the state pension? If not, is it market practice for employers to do so?

All employers must provide a workplace pension in addition to the state pension, which must meet specified criteria, and which any worker may join.¹⁰ Certain employees must be automatically enrolled into a workplace pension, and the employer is obliged to make employer contributions in respect of some categories of employee. The table below provides more detail.

| Age of Worker | Annual Earnings | | |
|----------------------|---|---|--|
| | Less than £6,240 | £6,240–9,999 | £10,000+ |
| 16–21 | Right to join (no employer contribution required) | Right to join with employer contributions | Right to join with employer contributions |
| 22–state pension age | Right to join (no employer contribution required) | Right to join with employer contributions | Must be automatically enrolled into workplace pension |
| State pension age–74 | Right to join (no employer contribution required) | Right to join with employer contributions | Right to join with employer contributions |

Where employer contributions are required, the employer must pay 3% of an employee's "**qualifying earnings**". Qualifying earnings for the tax year 2025/26 are **all** earnings between £6,240 and £50,270. Any earnings over £50,270 are not included.

The total minimum contribution into a workplace pension (the balance being made up as employee contribution and tax relief) is 8%.

Not all workplace pensions will calculate contributions by reference to qualifying earnings. For those plans that do not (including DB plans), legislation sets alternative conditions that must be met.¹¹

TPR has detailed information on its website to assist employers comply with minimum requirements.¹²

3 Provision of Workplace Pensions

3.1 What are the common legal structures for providing workplace pensions (for example: a trust established by the employer; a contractual obligation on the employer to pay pensions from its own resources; industry-wide pension schemes; insurance policies; and/or provision by another financial service provider)?

UK workplace pensions can be split into two main types: occupational pensions; and personal pensions. Occupational pensions can be further divided into DB, defined contribution (DC) (commonly and interchangeably referred to as "money purchase") and collective defined contribution (CDC). All personal pensions are DC.

Occupational pensions are trust based, either established by the employer or increasingly by a commercial entity as a "master trust". In either case, the employer will have obligations and rights under the terms of the trust and legislation. The pension plan itself will be administered by trustees, who act independently of the employer.

A personal pension is a contract-based arrangement between the employee and the pension provider, which is usually an insurance company so does not have to relate to employment with a specific employer. However, a common type of workplace personal pension is a group personal pension arrangement (GPP), which comprises a series of contracts between individual employees and the pension provider. The employer, who will have often arranged for preferential fees for its employees, may agree a contractual obligation to pay contributions to the GPP and might agree to pick up some of the costs of the GPP.

3.2 Where are an employee's rights to a workplace pension commonly set out (for example: in legislation; under the employment contract; in a collective agreement; and/or under the pension scheme rules)?

The statutory minimum that must be provided to an employee

by way of a workplace pension is set out in legislation.¹³ An employee's contract of employment might specify additional pension entitlements over and above the statutory minimum, which could be just to contribute to a personal pension. The rules of the workplace pension will also set out eligibility criteria and entitlements.

4 Benefit Design for Workplace Pensions

4.1 Retirement benefits: must the benefit be provided in a particular form (for example: an income for life; a lump sum; or instalments drawn from the member's fund)?

The form of retirement benefits will depend on the rules of the workplace pension.

For a DC workplace pension, the most usual option is that an individual will commute part of their accumulated pension savings for a lump sum and will use the balance to purchase an annuity from an insurance company. Since 6 April 2015, it has been possible (subject to the rules of the pension plan) to take 100% of a DC pension as a lump sum. Other possibilities are partial encashment and drawdown.

By contrast, while part of a DB pension may be taken as a lump sum, most of it must be paid as income. Broadly, the maximum amount of benefit that can be commuted for cash is currently 25% of the capital value of the income.

CDC is a new type of workplace pension that has been permitted since 2022.¹⁴ It provides benefits in the form of an income for life out of the plan itself, rather than requiring the purchase of an annuity. Contributions resemble DC contributions, but the assets of the plan are pooled and invested collectively. Unlike a DB pension, the amount of income is not guaranteed, and can reduce depending on funding levels. We were pleased to be involved in establishing the first CDC plan in the UK.

4.2 Must (or may) retirement benefits be: (a) Defined Benefit (DB) (benefits defined by reference to a formula, with the employer or other provider liable to pay the cost of providing the promised benefit if scheme assets prove to be insufficient); (b) Defined Contribution (DC) (with the employer liable to pay contributions at a specified level but with no ongoing responsibility for the amount of benefits ultimately paid); or (c) a combination of DB and DC (for example, DC benefits with a specified DB underpin)?

Benefits may take the form of any of the options listed or be CDC benefits described above. However, all workplace pensions must comply with some restrictions on the type of benefit recipient and form of benefits to obtain tax beneficial treatment.

4.3 If DB benefits are provided, how are they typically calculated (for example, a percentage of the employee's final pensionable salary, linked to the period of pensionable service ("final salary" benefits), by reference to a percentage of pay in each year of the employee's pensionable service ("career average" benefits), or as a guaranteed lump sum ("cash balance" benefits)?

The most typical forms of DB benefits are "final salary" and "career average" (CARE). Cash balance benefits are less popular.

Final salary pension is calculated by reference to the final salary of the employee, multiplied by the number of years of pensionable service and a multiplication factor, which is commonly referred to as an "accrual" rate. By way of example, an employee who completes 40 years of pensionable service in a workplace pension with an accrual rate of 1/60ths and who earned £30,000 as their final pensionable salary would receive a pension of $40 \times 1/60 \times £30,000 = £20,000 \text{ per annum}$. In many plans, "final salary" involves an analysis of an employee's pay over several years (so not literally their final salary).

A CARE pension is similar to a final salary pension, but each year of pension earned is calculated by reference to the employee's pensionable salary for that year and it is then revalued up to retirement, with all pension earned being aggregated together into one final pension amount. Revaluation involves inflation-proofing the benefits (often subject to floors and caps).

4.4 Are there any restrictions on when benefits may be taken (such as only after reaching a specified age)?

Pension plan rules must set out the normal retirement age of a member. Most allow a member to take their benefits earlier or later than their normal retirement age with an appropriate adjustment being made to take account of benefits being paid for a longer or shorter period. Most usually only permit early retirement in line with prevailing tax legislation, which currently permits individuals to take benefits from age 55 (increasing to age 57 from 6 April 2028) or earlier in the case of ill health that meets certain conditions. Some individuals, however, will have a protected earlier minimum pension age (usually age 50).

4.5 Early leavers: what are the pension rights of an employee who leaves employment with an employer before reaching retirement age?

Early leaver rights vary depending on whether the workplace pension is occupational or contract-based.

In an occupational plan, all contributions will cease once the employee leaves the employment of the employer. If they have qualifying service of 30 days or more (in a DC plan) or two years or more (in a DB plan), they will be entitled to benefits at normal retirement age (or earlier if the plan's rules permit this).¹⁵ Alternatively, they could transfer their rights to a different pension arrangement. If they have insufficient qualifying service, they may receive a refund of their contributions.

For contract-based pensions, the employee has control over their individual pension pot. They (and/or their new employer) can continue to contribute or cease contributions, and the pension will continue to benefit from investment returns. They could transfer it to another arrangement.

4.6 Transfers: can pension rights be transferred to a new pension arrangement (on the employee's request; with the employee's consent; or without employee consent)?

Broadly, employees may take a transfer to a different pension arrangement if they wish. However, in a DB plan, the statutory right to take a transfer expires 12 months before the employee reaches normal retirement age, although the plan's rules often give pension trustees a discretion to make a non-statutory transfer.¹⁶

The trustees of an occupational plan may transfer individuals' pension rights to another arrangement as part of a bulk transfer (for example, on a plan merger). Provided certain conditions are met, employee consent is not required.

An employer could not transfer its employees out of a contract-based workplace pension, because the employees have a direct contract with the pension provider. However, the employer could designate a different workplace pension for automatic enrolment of its employees for future service.

4.7 Inflation protection: how are pensions increased (if at all): (a) in payment; and (b) before retirement (in deferment)?

(a) Pensions in payment

Pensions in payment derived from an individual DC pension will only receive inflation protection if the terms of the annuity that is bought to provide that pension include it.

A CDC pension in payment will increase if (1) that is part of the plan design and the assets of the plan are sufficient to afford it, or (2) the assets are greater than its liabilities. However, if the assets are lower than the liabilities, pensions will decrease. The same adjustment must be applied for all plan members.

The inflation protection (indexation) that is applied in respect of a DB pension in payment will be set out in the plan rules but subject to the statutory minimum. Pension earned from 6 April 1997 must be increased at least in line with the prices index, subject to a cap. From 6 April 1997 to 5 April 2005 inclusive, the cap was 5%. From 6 April 2005, the cap was 2.5%.¹⁷

(b) Deferred pensions

There is no revaluation of deferred DC benefits, but deferred CDC benefits must be adjusted in the same way as a CDC pension in payment.

Deferred DB benefits must be revalued by at least the statutory minimum.¹⁸ This was calculated by reference to the prices index capped at 5% until 6 April 2009, and is now calculated by reference to the prices index capped at 2.5%.

Prices index

The prices index used to set the statutory minimum for indexation and revaluation for DB benefits was originally the retail prices index. In January 2012, the government switched to using the consumer prices index.¹⁹

4.8 Ill health or disability pensions: may (or must) these be provided by an employer?

There is no obligation to provide ill health or disability pensions, but most DB and some CDC plans will. These are usually payable at the discretion of the pension trustees and/or employer and using the eligibility criteria reflecting tax legislation.

4.9 Death benefits: may (or must) these be provided by an employer? In what form (e.g. a pension or lump sum)?

There is no obligation to provide death benefits. Typically, employers that do provide death benefits will provide a lump sum that is a multiple of salary (for example, 4x salary). The benefit might be paid through an occupational pension plan, or it might be paid out of a separate stand-alone death in service arrangement. In most cases, the benefit will be insured.

DB plans will usually also provide a dependant's pension in the event of the death of an employee. This is typically 50% of the employee's pension, payable to a spouse or civil partner. In some plans, a child's pension will also be payable, but usually only where the employee dies before starting to take their pension from the plan. DC and CDC may provide a dependant's pension.

Plans may also provide benefits in the event of death after leaving service and/or in retirement.

5 Scheme Funding: Defined Benefit

5.1 Statutory protection: please describe any minimum funding requirements or other protections (e.g. mandatory insurance, periodic actuarial valuations).

The minimum funding requirements for DB plans are set out in Part 3 of the Pensions Act 2004 and associated regulations. Also relevant is TPR's defined benefit funding code of practice.²⁰

For DB plans, an actuarial valuation must be undertaken at least every three years (with actuarial reports at annual intervals between full valuations). Pension trustees must agree a funding and investment strategy with the employer. The actuarial valuation assesses the current funding position while the funding and investment strategy sets out how trustees intend to provide for the benefits over the long term. Once the actuarial valuation has been undertaken, a schedule of contributions and recovery plan (if the plan is in deficit) must be prepared.

5.2 If actuarial valuations are required, who decides what assumptions are used and how any underfunding is made good?

For DB plans, generally, trustees and employers must reach agreement in relation to the assumptions to be used in the valuation and when setting the schedule of contributions and recovery plan. If, however, the plan's rules provide that trustees set the contribution rate and the employer does not have the power to suspend or reduce contributions, the trustees need only consult (rather than reach agreement) with the employer.

The valuation, schedule of contributions, statement of strategy and recovery plan for a DB plan must be signed off within 15 months of the effective date of the valuation. All documents must be submitted to TPR using its digital service. TPR has the power to set a schedule of contributions and recovery plan in the event that the trustees and employer are unable to reach agreement.

While not DB, a similar position exists in relation to CDC plans. Actuarial valuations must be undertaken every year with assumptions set as provided in their rules. However, these valuations are used to determine benefit adjustments instead of funding obligations. The valuation, which must be signed off within 10 months of the effective date of the valuation, must then be submitted to TPR within 10 days.

5.3 Are any other entities (such as the employer's parent or other group companies) obliged to fund DB liabilities?

Normally, no entity other than the employer is obliged to fund DB liabilities. However, TPR has the power, in certain circumstances, to require a connected or associated party²¹ to contribute to a DB plan by using its anti-avoidance powers such as issuing a contribution notice,²² or to provide alternative financial support under a financial support direction.²³

5.4 Does provision for ongoing obligations to fund DB pensions have to be made in the accounts of the employer (or other obliged entity)?

Provision for ongoing DB obligations is shown in an employer's balance sheet and is measured using the FRS102 or IAS19 accounting standards. This often reflects a different cost of liabilities than that disclosed in the triennial actuarial valuations.

5.5 How may an obligation on an employer (or other entity) to fund DB benefits be enforced?

Trustees' first recourse is likely to be to involve TPR. The prospect of TPR enforcement action, which could require a company or individual director to make a payment under a contribution notice or require a company to provide financial support under a financial support direction and/or pay penalties, would likely incentivise an employer to comply with its funding obligations.

Alternatively, the trustees could seek a court order for payment of overdue contributions. Failure to comply with a court order could result in the trustees obtaining a winding-up order against the employer.

5.6 Are there any circumstances in which an employer (or other obliged entity) may be required to pay additional pension contributions?

Generally, employers are not required to make additional pension contributions over and above the level agreed in the plan rules or schedule of contributions.

Trustees do, however, have the power to call for an out of cycle valuation, and may do so if circumstances (for example a corporate transaction) warrant a re-assessment of the funding level. This could in turn result in a revised schedule of contributions.

As mentioned above, an employer or others could be required to make additional payments if there has been an event causing TPR to use its anti-avoidance powers.

5.7 Is there any government or other protection on an employer's insolvency? Are employers required to contribute to the provision of this protection?

Pension plans are always constituted separately from the employers, but often their rules require they be wound up on the insolvency of the employer. If a DB plan is in deficit, a debt on the employer will be triggered (often referred to as a "section 75" debt).²⁴ This debt equals the difference between the value of the plan's assets and the amount that would be required to settle all liabilities in full by the purchase of annuities with

an insurance company, plus the costs of winding up the plan. This is usually higher than the ordinary ongoing funding cost and can be a significant amount.

If a section 75 debt is triggered, the plan (if eligible) will enter a Pension Protection Fund (**PPF**) assessment period to determine whether its members are eligible for compensation from the PPF. The PPF is open to most DB pension plans where an employer has entered insolvency and there are insufficient assets available to pay benefits at the level of compensation that would be paid by the PPF. The PPF is funded by levies charged to the universe of PPF-eligible plans and by taking on the assets of plans that transfer to it. PPF compensation is broadly 100% of pension for an individual who has reached normal retirement age, and 90% of pension for deferred members.

6 Scheme Funding: Defined Contribution

6.1 Is there a statutory minimum contribution level for employers (and employees)?

Employers and employees must comply with the minimum requirements noted at question 2.4 above.

7 Investment

7.1 Are there any statutory restrictions or obligations on the investment of pension scheme assets?

Trustees of occupational plans have sole discretion to determine their own investment strategy, but are required to consult with the employer. They have wide discretion to invest pension fund assets as if they were absolutely entitled to the assets. This power is tempered by both legislation and any provisions of the plan. Legislation requires trustees to exercise their powers of investment "in a manner calculated to ensure the security, quality, liquidity and profitability of the portfolio as a whole".²⁵ Legislation also restricts certain types of investments, such as employer-related investments.²⁶

By law, trustees must now take account of environmental, social and governance factors when setting their investment strategy.

A Pension Schemes Bill that is expected to become law in 2026 will give the government a reserve power to mandate how a proportion of DC pension funds must be invested.

8 Tax

8.1 How are employee and employer pension contributions (including allocation to book reserves in the employer's accounts) treated for tax purposes?

An employee receives tax relief on their pension contributions at their marginal income tax rate. An employer's pension contributions will usually be treated as an expense of the business for tax purposes and are currently free from National Insurance contributions.

8.2 Are salary sacrifice arrangements permitted or required (and, if so, what is the tax position)?

Salary sacrifice arrangements are currently permitted. The benefit to the employer is that the arrangement lowers the overall salary of the employee that is subject to National Insurance contributions.

8.3 How are income and capital growth generated from pension scheme assets treated for tax purposes?

Income and capital growth generated from the assets of most pension plans are not taxable.

8.4 How are pensions and other benefits taxed (if at all) on payment?

Generally, a person can take up to 25% of the capital value of benefits as a tax-free lump sum capped at £268,275 (or higher for some legacy arrangements), with the remainder being taxed at the individual's marginal rate of income tax, whether it is taken as a lump sum or as income.

Lump sum death in service benefits that are held on discretionary trusts are paid free from tax. From 6 April 2027, most unused pension pots will be included in the value of an individual's estate for the purposes of calculating inheritance tax on their death.²⁷ However, death in service benefits paid from plans registered with HMRC will be out of scope, as will dependants' pensions from DB and CDC plans.

Dependants' pensions are paid at a dependant's marginal income tax rate.

9 Pension Issues on Share or Business Sales or Acquisitions

9.1 Share sales: what (if any) obligations does the purchaser of a company take on in respect of: (a) employees' future pension provision; and (b) pension rights built up by the company's employees (and previous employees) before the sale?

On the sale of shares in an employer, there is unlikely to be any change in the obligations it owes in respect of future or past pension provision for current and previous employees.

If the employer is one of several employers participating in the *seller's* group occupational plan, its rules may require or permit the employer to automatically cease to participate. Where the employer ceases to participate, its employees will cease to be active members of the plan, usually effective from completion. The pension rights they had built up would be frozen in the seller's plan, and its trustees would retain the liability for providing those benefits. The employer/purchaser would need to put alternative pension arrangements in place for future pension provision.

DB pensions

Care needs to be taken if the employer participated in a group DB plan.

On ceasing to participate in the group plan, a section 75 debt could be triggered against the employer, which must be calculated and certified in accordance with regulations.²⁸ If an employer debt is triggered, it could be a significant amount in the context of the transaction.

An employer that either ceases to participate or formerly participated in a group DB plan will remain within the scope of TPR's anti-avoidance powers for up to six years from the date of completion or ceasing to participate, if later, and could, in certain circumstances, be required by TPR to contribute or provide financial support to the *seller's* pension plan.

Additionally, if the circumstances of the transaction could constitute "avoidance of an employer debt" or "conduct risking accrued scheme benefits", TPR could also impose criminal sanctions on the parties concerned.

If any employees have previously been transferred to the employer following a business sale and any of those employees were previously in a DB pension plan offering enhanced early retirement or redundancy pensions, it is possible that the obligation to provide such pensions will have transferred to the employer as a contractual right and will continue as an obligation post-acquisition of the employer.²⁹

9.2 Business (asset) sales: what (if any) obligations does the purchaser of a business take on in respect of: (a) future pension provision for any employees who are transferred to the purchaser; and (b) pension rights built up by transferring employees while employed by the seller?

On the sale of a business, legislation provides protection for transferring employees.³⁰ The transferring employees will no longer have the same employer as they had before the transfer but, generally, they will retain all contractual employment rights. This extends to pension rights in the ways listed below.

Contract-based pension

If the employer operated a contract-based workplace pension, the purchaser will be obliged to provide the same pension provision going forward. If a transferring employee was in a waiting period or had a right to join the pension plan prior to the transfer date, that right will continue post transfer. The purchaser will be obliged to provide the employee with the same benefits that they could have previously accessed.

Occupational plan

Generally, rights under an occupational plan do not transfer on a business sale (with the exceptions noted below). Benefits already accrued will be frozen and will remain a liability of the former pension plan.

There is, however, a basic minimum that must be provided in respect of future pension rights to transferring employees who were in an occupational pension plan (or who were eligible to join or in a waiting period). They must be offered membership of a workplace pension that meets a certain standard.³¹ For a DC arrangement, the purchaser must provide, as a minimum, the lower of (1) a contribution rate that matches the employee contribution rate, up to 6%, and (2) a contribution rate that matches the former employer's contribution rate immediately prior to the transfer. The choice of which contribution rate to offer rests with the purchaser.³²

Rights to "old age, invalidity and survivor's benefits" provided through an occupational plan do not transfer on a business sale.³³ Other types of benefits provided by an occupational plan *do* transfer on a business sale. The most likely to arise is the right to an enhanced pension on redundancy. In the event of the redundancy of an employee with the transferred rights and who is over their normal minimum pension age (usually age 55, but this can sometimes be 50) the purchaser may be liable to provide the enhanced redundancy pension. The worst-case scenario for a purchaser would be a requirement to pay the full value of the enhanced redundancy pension until the employee reaches normal retirement age. *This can be a significant cost.*

Interaction with automatic enrolment

Note that the purchaser will also be required to comply with the automatic enrolment legislation described in question 2.4. Therefore, all transferring employees will need to be assessed

for automatic enrolment purposes and the pension to be provided increased as necessary.

9.3 Does the sale of a company or business require the approval of a regulator or other person (such as a pension trustee) in relation to workplace pensions?

Generally, the sale of a company or business does not require the approval of a regulator or pension trustees. However, notification requirements will apply.

Legislation requires an employer within one month to disclose to the trustees of an occupational plan any event that is relevant to the trustees' administration of the plan.³⁴ It is good practice for the employer to notify the trustees of an event impacting the plan as soon as possible. There may also be an information sharing protocol in place between the employer and trustees that would require this.

The sale of a business is also a notifiable event that must be notified by an employer to TPR as soon as reasonably practicable after the event.³⁵

Failure to comply with either of these statutory requirements of disclosure and notification can result in a financial penalty of up to £1 million.³⁶

The employer should also bear in mind the extensive anti-avoidance powers available to TPR if a sale might have an impact on a DB pension plan. If there is any doubt about whether TPR might use those powers, the parties could apply for advance clearance from TPR.

10 Employment Issues

10.1 What are the pension obligations of the employer and employee during periods of maternity leave (or other family leave)?

This is a complex area. The general position is set out below, and it often differs depending on whether the leave is paid or unpaid. There can be additional factors to consider, such as application of auto-enrolment thresholds, the impact of salary sacrifice arrangements and plan specific features (e.g. death in service benefits). Generally, pensionable service must be treated as continuous even if there is no accrual for a period.

Maternity leave

For DB plans, the employee must accrue the same benefits as if working normally during both ordinary maternity leave and additional maternity leave, whether paid or unpaid. The position is different and depends on the contributions paid in DC plans.

As regards contribution obligations, during any period of *ordinary maternity leave* (whether paid or unpaid), the employee will pay contributions to an occupational plan calculated on the amount of pay that she actually receives. The employer, however, must make employer contributions calculated as if the employee were working normally. Although it is not clear that it is a legal obligation to do so, many employers also top up the contributions paid by the employee if lower than they would otherwise be. During any period of *additional maternity leave*, contributions to an occupational plan are only required to be paid during *paid* additional maternity leave (at the same rates as for ordinary maternity leave).

The legal position in relation to contributions to contract-based pensions, such as an employer's GPP, is less clear, but many employers who contribute to these adopt the same approach as they would for occupational plans.

Paternity leave, adoption leave, parental bereavement leave, shared parental leave and neonatal care leave

During any period of *paid* leave, the right to accrual in a DB plan continues.

For all plans, if the leave is paid, the employee will pay contributions calculated on the amount of pay actually received, whilst the employer will make employer contributions calculated as if the employee were working normally. There is generally no requirement to make contributions during unpaid leave, although that position is not clear cut in relation to paternity leave, and arguably contributions must continue by reference to unreduced salary for adoption leave.

Family leave and carer's leave

During *paid* leave, employees must make contributions calculated on the amount of pay actually received. In respect of DB pensions, the employer must provide the employee with the full benefit, so there will be no reduction in the employer contribution rate by virtue of the employee being on lower pay. However, in respect of DC pensions, the employer is only required to make employer contributions calculated on the amount of pay actually received.

During *unpaid* leave, there is no obligation on either the employee or the employer to make contributions. However, this will be subject to the contractual terms in place between the employer and employee and the plan rules.

10.2 Does an employee have any additional pension rights on redundancy or dismissal for another reason?

There is no statutory right to additional pension rights on redundancy or dismissal, but the rules of a DB plan might grant such rights.

10.3 Do any anti-discrimination provisions apply in relation to workplace pensions?

Yes. Anti-discrimination law plays a significant role in workplace pensions. Anyone looking to acquire an employer that has or continues to participate in an occupational plan, DB in particular, should carry out appropriate due diligence to make sure that there are no hidden liabilities as a result of a failure to comply with anti-discrimination laws.

Endnotes

- 1 <https://www.thepensionsregulator.gov.uk/en>
- 2 Section 5 Pensions Act 2004.
- 3 Section 107 Pension Schemes Act 2021.
- 4 Section 72 Pensions Act 2004.
- 5 Sections 80A and 80B Pensions Act 2004.
- 6 <https://www.gov.uk/new-state-pension/what-youll-get>
- 7 Median average earnings for August 2025 are estimated in a joint analysis by the Office for National Statistics and HMRC: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/earningsandemploymentfrompayasyouearnrealtimeinformationuk/september2025>
- 8 Section 27 Pensions Act 2014.
- 9 Sections 16 and 17 Pensions Act 2014.
- 10 Sections 1 and 2 Pensions Act 2008.
- 11 Sections 16–28 Pensions Act 2008.
- 12 <https://www.thepensionsregulator.gov.uk/en>
- 13 Sections 20–28 Pensions Act 2008.
- 14 CDC was made possible by the Pension Schemes Act 2021.
- 15 The rights are set out in the Pension Schemes Act 1993.
- 16 Part 4ZA Pension Schemes Act 1993.
- 17 Section 51 Pensions Act 1995.
- 18 Section 83 Pension Schemes Act 1993.
- 19 Section 19 Pensions Act 2011.
- 20 <https://www.thepensionsregulator.gov.uk/en/document-library/code-of-practice/funding-and-investment/funding-defined-benefits>
- 21 Within the meaning of sections 249 and 435 Insolvency Act 1986, respectively.
- 22 A contribution notice is a notice requiring a specified person to make a payment of a monetary amount into an underfunded DB pension scheme. Ordinarily, the person (1) will have been party to an act or omission that was either materially detrimental to the pension scheme, or reduced the level of resources available to an employer to fund the pension scheme, or was for the purpose of avoiding payment of a debt due (or that might become due) to the pension scheme, and (2) will be connected or associated with an employer or former employer of the pension scheme. Broadly, companies and directors of companies within the same group will be connected and associated. TPR can look back six years to events that have either had a materially adverse impact on the funding of a DB scheme or have been designed to avoid liability in relation to the payment of an employer debt owed (or that might become owed) to the pension scheme. If there is such an event or series of events, TPR can require the target of the contribution notice to provide cash compensation to the scheme. This could be for any amount up to the full deficit amount in the pension scheme.
- 23 A financial support direction, in contrast, is an order requiring a company to provide an agreed form of financial support to a pension scheme, for example, parent company guarantee, bank guarantee, or a charge over assets. TPR can only issue a financial support direction if an employer of the scheme is a service company or is otherwise insufficiently resourced and TPR considers it reasonable to do so. Broadly, an employer will be insufficiently resourced if its assets are less than 50% of the amount of the deficit in the pension scheme (calculated on the full buy out basis, which is the basis needed to secure all pensions in full with annuities and pay winding up expenses). Failure to comply with a financial support direction can result in TPR issuing a contribution notice, which can be enforced through the Courts.
- 24 Section 75 Pensions Act 1995.
- 25 Regulation 4(3) The Occupational Pension Schemes (Investment) Regulations 2005.
- 26 Section 40 Pensions Act 1995 and The Occupational Pension Schemes (Investment) Regulations 2005.
- 27 <https://www.gov.uk/government/publications/reforming-inheritance-tax-unused-pension-funds-and-death-benefits/inheritance-tax-on-unused-pension-funds-and-death-benefits>
- 28 Section 75A Pensions Act 1995 and The Occupational Pension Schemes (Employer Debt) Regulations 2005.
- 29 Transfer of Undertakings (Protection of Employment) Regulations 2006.
- 30 Transfer of Undertakings (Protection of Employment) Regulations 2006.
- 31 Section 258 Pensions Act 2004.
- 32 Section 258 Pensions Act 2004 and The Transfer of Employment (Pension Protection) Regulations 2005.
- 33 Regulation 10(2) Transfer of Undertakings (Protection of Employment) Regulations 2006.

- 34 Regulation 6 The Occupational Pension Schemes (Scheme Administration) Regulations 1996.
- 35 Section 69(2)(b) Pensions Act 2004 and Regulation 2(2)(b) The Pensions Regulator (Notifiable Events) Regulations 2005.
- 36 Sections 80A and 80B Pensions Act 2004.



Wendy Hunter is a partner and head of the London Pensions Practice Group at Squire Patton Boggs. Having joined the firm in 1993, she has over three decades of experience advising employers and trustees on all aspects of pensions law, including scheme documentation and pension aspects of corporate transactions, especially public to private sector transfers and their consequences.

Wendy frequently contributes to pensions and legal press and is a regular speaker on pensions matters. She is former member of the legislation committee of the Society of Pension Professionals and a member of the Association of Pension Lawyers.

Wendy is recognised as a Leading Partner by *The Legal 500 UK* and a Notable Practitioner by *Chambers UK* for the breadth and depth of her experience.

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Chambers UK

Squire Patton Boggs (UK) LLP

60 London Wall
London, EC2M 5TQ
United Kingdom

Tel: +44 20 7655 1119

Email: wendy.hunter@squirepb.com

LinkedIn: www.linkedin.com/in/wendy-hunter-1274b568



Claire Dimmock is a professional support lawyer in the UK Pensions Practice Group of Squire Patton Boggs, providing technical training and updates on new areas of pensions law to other lawyers within the practice group. Before this, Claire practised as a UK qualified solicitor for 12 years, advising clients on a range of pensions-related matters, including the pensions aspects of share sales and business acquisitions, pension plan de-mergers, pension warranty disputes, group restructurings, pension plan liability reduction measures, the provision of pension arrangements for former public sector employees, sex discrimination and equal treatment issues, excepted group life assurance schemes, pensions automatic enrolment and lifetime allowance issues.

Squire Patton Boggs (UK) LLP

6 Wellington Place
Leeds, LS1 4AP
United Kingdom

Tel: +44 7894 991 085

Email: claire.dimmock@squirepb.com

URL: www.squirepattonboggs.com/en/professionals/d/dimmock-claire

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