



Pensions

What are the legal issues for the application of pensions law in the UK following a Brexit?

Issue	Impact	Areas of law affected
Scheme funding requirements	Brexit will allow the review of scheme funding requirements derived from the EU Pensions Directive, although wholesale change to the existing scheme specific, prudence based approach is unlikely. However, Brexit will remove the potential for anticipated longer term changes to move to a far more onerous funding basis (the so-called 'holistic balance sheet').	 Pensions
Pensions aspects of TUPE	Under Court of Justice case law, pension rights on redundancy or early retirement can transfer, whilst other pension rights do not. This currently complicates business sales and the Government would be free to streamline its approach e.g. to restore a broad exemption from TUPE for pension rights.	 Pensions
Pensions aspects of equality legislation	Discrimination legislation will remain, but it will be possible to expand existing exemptions in key areas such as age discrimination, which has never sat easily with the concept of a pension scheme. There will be scope to review the law on sex discrimination as it relates to issues such as scheme calculation factors or guaranteed minimum pensions, both areas in which application of EU law has led to difficulties in practice.	 Pensions
Investment	Regulations contain restrictions on pension scheme investment derived from the Pensions Directive. These could be amended but seem unlikely to be the subject of fundamental change. In addition, the European Markets Infrastructure Regulation which has implications for trustees purchasing derivatives will no longer be directly relevant.	 Pensions

Data Protection

Existing data protection legislation is unlikely to change but changes in a new European Data Protection Regulation due to come into force in May 2018 may not affect the UK. This will mean that trustees will not have to revisit existing data protection consents.



Intellectual
Property



Pensions

Cross-border schemes

There are strict funding requirements for schemes which operate across European borders. UK legislation implementing these requirements will need to be amended and it is not clear what will replace it.



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