

Pensions law – the week in review

1 June 2009

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1 LEGISLATION

1.1 The Pension Schemes (Reduction in Pension Rates) (Amendment) Regulations 2009

The Finance Act 2004 includes rules about what qualifies as a “scheme pension” (and therefore an authorised payment for tax purposes). As part of these rules, once in payment a scheme pension cannot generally be reduced (and remain “authorised”), except in specified circumstances.

Under one of these exceptions, all scheme pensions being paid can be reduced at the same rate. However, where a scheme is winding-up in deficit, only some members’ benefits (not all) may need to be cut back. Affected individuals may then find that their future pension payments are subject to unauthorised payments charges.

The regulations address this issue by permitting pensions which are reduced in these circumstances to continue to be paid as authorised scheme pensions under the 2004 Act.

The regulations will come into force on 1 July 2009 and will have retrospective effect from 6 April 2006 (A-Day).

To access the regulations and accompanying explanatory memorandum, please click on the links below:

http://www.opsi.gov.uk/si/si2009/pdf/uksi_20091311_en.pdf

http://www.opsi.gov.uk/si/si2009/em/uksiem_20091311_en.pdf

1.2 The National Health Service Pension Scheme (Amendment) Regulations 2009

These are designed to ensure that NHS staff who are seconded to non-NHS organisations for the purpose of performing duties which have been transferred to that organisation (known as the “Retention of Employment” model) may only continue to be members of the NHS Pension Scheme in circumstances where the Secretary of State for Health considers that appropriate. There are currently two such specified

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circumstances - in respect of soft facilities management staff in Private Finance Initiative Schemes and for staff working in Independent Sector Treatment Centres.

The regulations will come into force on 1 July 2009.

To access the regulations and accompanying explanatory memorandum, please click on the links below:

http://www.opsi.gov.uk/si/si2009/pdf/uksi_20091298_en.pdf

http://www.opsi.gov.uk/si/si2009/em/uksiem_20091298_en.pdf

2 ASSOCIATION OF BRITISH INSURERS (ABI)

2.1 New consumer guide launched

The ABI has produced a leaflet for consumers - "People need pensions" - which is designed to answer some key questions about pensions and annuities in the light of the current economic climate.

To access the leaflet and the ABI's press release, please click on the links below:

<http://www.abi.org.uk/Members/circulars/viewAttachment.asp?EID=23007&DID=17783>

<http://www.abi.org.uk/Newsreleases/viewNewsRelease.asp?nrid=17783>

3 DEPARTMENT FOR WORK AND PENSIONS (DWP)

3.1 Two new non-executive directors appointed to the Pensions Regulator

James Purnell, Secretary of State for Work and Pensions, has today (1 June 2009) announced the appointments of Isabel Hudson and Bruce Rigby as Non-Executive Directors of the Pensions Regulator (TPR).

Isabel Hudson is currently a Non-Executive Director of QBE, a top 20 global non life insurer, where she has been on the main Board since 2005. She also chairs the Business Development Board of the disability

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charity, Scope. Bruce Rigby is Mercer's Global Chief Retirement Strategist. Until the end of 2008, he led Mercer's global retirement, risk and finance consulting business.

David Norgrove, Chair of TPR, said:

"I am delighted with the appointments of Isabel Hudson and Bruce Rigby and the breadth of experience they will bring to the Regulator. Their knowledge of pensions and of business will help us continue to develop the strategic direction of the Regulator; both during the current economic pressures and through to the impending reform of workplace pensions."

The appointments start from today and will last for a period of four years.

To access the DWP's press release, please click on the link below:

<http://www.dwp.gov.uk/mediacentre/pressreleases/2009/june/pens105-010609.asp>

4 FINANCIAL REPORTING COUNCIL (FRC)

4.1 Annual Report for 2008/09

The FRC published its annual report 2008/09 on 27 May 2009. The report describes the way in which the FRC and its operating bodies (which include the Board for Actuarial Standards and the Professional Oversight Board), as well as its committees (such as the Committee on Corporate Governance), have "contributed to promoting confidence in corporate reporting and governance during 2008/09". The report is structured around the FRC's Strategic Framework, "which defines the outcomes the FRC believes that it and its stakeholders should be working towards to promote confidence in corporate reporting and governance in the UK."

A current focus of the FRC is the Corporate Governance Committee's review of the Combined Code. Usually carried out every two years, the current review was brought forward "in the light of the changed economic conditions and other developments" and the first phase of the review began in March 2009. The FRC notes that while "there is no assumption that the Code is fundamentally flawed or that a different

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regulatory framework for corporate governance could have alleviated the financial crisis, we were clear that the time was ripe for testing the Code's content and application against the fresh thinking that the crisis must provoke."

To access the FRC's press release and the 2008/09 annual report, please click on the links below:

<http://www.frc.org.uk/press/pub1982.html>

<http://www.frc.org.uk/images/uploaded/documents/FINAL%20Annual%20Report%202008-095.pdf>

5 HM REVENUE & CUSTOMS (HMRC)

5.1 Statistics updated

On 28 May 2009, HM Revenue & Customs (HMRC) published updated statistics relating to pensions, tax-free savings and investments.

The statistics cover:

- personal pensions (including stakeholder pensions) and free-standing additional voluntary contributions (FSAVCs);
- the treatment of pension fund surpluses; and
- the cost of tax relief for registered pension schemes.

To access HMRC's updated statistics, please click on the link below:

<http://www.hmrc.gov.uk/stats/pensions/menu.htm>

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6 HM TREASURY

6.1 Equitable Life - Update

The Treasury has published a series of “Q&As” relating to the Government’s response to the Parliamentary Ombudsman’s report into the collapse of the Equitable Life Assurance Society. This comes in the wake of the Parliamentary Ombudsman’s further report into the collapse of Equitable Life, which was published on 6 May 2009.¹

Equitable Life remains in the spotlight as the policyholders’ action group, the Equitable Members Action Group (EMAG), was last week granted permission to proceed to a full hearing of its judicial review, in a bid to quash the Government’s response and its failure to offer full compensation. The Treasury has until 24 June 2009 to prepare its defence.

To access the Treasury’s Q&A, please click on the link below:

http://www.hm-treasury.gov.uk/d/equitabliflife_faq200509.pdf

7 INTERNATIONAL ACCOUNTING STANDARDS BOARD (IASB)

7.1 IASB proposes clarification of accounting for prepayments for pension plans

The IASB has published an exposure draft of proposed amendments to IFRIC14 - *The Limit on a Defined Benefit Asset, Minimum Funding Requirements and Their Interaction*² for public comment.

The IASB notes that the proposed amendments are aimed at correcting an unintended consequence of IFRIC14, an interpretation of international accounting standard IAS19 (*Employee Benefits*). It states that “as a result of the interpretation, entities are in some circumstances not permitted to recognise as an asset some pre-payments for minimum funding contributions.”

¹ See 7 Days dated 11 May 2009

² Issued in July 2007 with mandatory application for periods beginning on or after 1 January 2008

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The Exposure Draft is open for comment until 27 July 2009.

To access the IASB's press release and Exposure Draft, please click on the links below:

[IASB Press Release](#)

[Exposure Draft ED/2009/4](#)

8 NATIONAL AUDIT OFFICE (NAO)

8.1 Pension Protection Fund (PPF) Study

The NAO has announced that it will carry out a study to examine PPF's approach to modelling and assess its current and potential future liabilities in both the short and long-term. It will review whether the PPF has followed good practice in the management of the increasing quantity of assets which are transferred to it from pension schemes entering the PPF. It will also address how the PPF is overseen by the DWP within the context of the Government's wider framework of pension protection.

The NAO intends to publish this study in "late 2009".

To access the NAO's press release, please click on the link below:

http://www.nao.org.uk/publications/work_in_progress/pension_protection_fund.aspx

9 PERSONAL ACCOUNTS DELIVERY AUTHORITY (PADA)

9.1 Securing a retirement income - summary of consultation responses published

On 27 May 2009, PADA published a summary of the responses to its consultation - "Building Personal Accounts: Securing a retirement income."

PADA received 45 written responses to the consultation and collected views at two public events and a series of smaller meetings.

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Some of the key points to emerge from the consultation include:

- acknowledgement that a lifetime annuity (or, where relevant, trivial commutation) is likely to be the most appropriate option for personal accounts members in terms of securing retirement income;
- the need to use accessible language and simple communications;
- the need to use other channels alongside 'e' communications such as a helpline for members, at least for part of the retirement process;
- general acknowledgement that a panel of providers approach could be the most appropriate route for members not wishing to exercise the open market option; and
- recognition that fund sizes are likely to be very small in the early years and that this could present a number of challenges to the scheme and the wider retirement income market.

The feedback received will be used to inform PADA's continuing work to deliver the personal accounts scheme.

PADA's press release and summary of consultation responses can be accessed by clicking on the links below:

<http://www.padeliveryauthority.org.uk/documents/Press-Release-27-05-2009.pdf>

http://www.padeliveryauthority.org.uk/documents/pada_consultation_income.pdf



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