Sackers extra

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SO7

Abbreviations commonly used in 7 Days

Alert/News: Sackers Extra publications (available from the client area of our website or from your usual contact)
DB: Defined benefit
DC: Defined contribution
DWP: Department for Work and Pensions
HMRC: HM Revenue & Customs
NEST: National Employment Savings Trust
PPF: Pension Protection Fund
TPR: The Pensions Regulator

LEGISLATION

The Equality Act (Amendment) Order 2010

On 29 October 2010, a new Order relating to the Equality Act was laid before Parliament.

The purpose of this Order is to correct a mistake in section 76 of the Equality Act 2010. The amendment will ensure that a claim for pregnancy and maternity discrimination cannot be brought for a term of employment, such as contractual pay, where the maternity equality clause or rule has no effect to continue such a right during the protected period.

Section 76 was designed to replicate equivalent provisions of the Sex Discrimination Act 1975, but, inadvertently, this particular provision had been omitted (and opened up the risk of claims against employers where such a claim has not previously been possible).

The Order came into force on 30 October 2010. Further information can be found in the Explanatory Memorandum which accompanies the Order.

BOARD FOR ACTUARIAL STANDARDS

Proposed changes to statutory money purchase illustrations: analysis of consultation responses

In March 2010, the Board for Actuarial Standards (BAS) published a consultation paper on possible changes to the rules governing how money purchase pension scheme projections of future fund values are calculated. These rules apply to the statutory annual statements for DC scheme members. On 28 October 2010, BAS published an analysis of responses to this consultation.

BAS has decided to make no immediate changes to the rules, but plans to engage in further discussion with providers and other stakeholders. BAS says that this will enable it "to work with the FSA, to ensure that consistency is maintained with its rules for point of sale projections, and with the DWP, to ensure that the rules are in line with its policy intent. It is important that changes to the rules are not too frequent, given the resulting costs."

BAS Press Release

DEPARTMENT FOR WORK AND PENSIONS

Workplace pension reforms get green light

Plans for the introduction of automatic enrolment and the new national pension scheme (NEST) were given the green light, following the publication of findings from an independent review "Making automatic enrolment work" (the Review) into the plans laid down by the former Labour government.

The Review supports proposals for employers to start automatically enrolling "jobholders" (eligible workers in Great Britain between the ages of 22 and State Pension Age) into their own qualifying pension arrangement or NEST from October 2012.

While the broad structure for automatic enrolment and NEST looks set to remain as originally planned, the Review recommends a number of improvements, many of which are designed to simplify the auto-enrolment process. These include:

- an increase in the threshold for automatic enrolment to £7,475 in 2011/12, with contributions payable only on earnings in excess of the National Insurance primary threshold;
- simplification of the certification process for qualifying DC schemes; and
- an optional three-month waiting period before the automatic enrolment duty applies.

Although no exclusion is on the cards for small employers, the Review is "only content to recommend they remain within scope if other deregulatory options are implemented to ease their administrative burden". The Review also recommends the removal of existing NEST restrictions on transfers, as well as a wholesale review "as a matter of some urgency" of how transfers in general can be made easier.

Further details are expected to emerge in due course, as the Government takes on board the Review's recommendations.

For more information, please see our Alert: "NEST comes home to roost!" dated 29 October 2010.

DWP Press Release

NEST Press Release

Written Ministerial Statement

Changes to the State Pension Age

In his statement on the Spending Review on 20 October 2010 (reported in 7 Days on 25 October 2010) the Chancellor, George Osborne, announced that the planned increase in the state pension age (SPA) would be accelerated, reaching 66 for all by 2020. He explained that the rise would start in 2018, meaning that SPA for women will go up more quickly than expected.

In a further announcement connected with these proposals, on 28 October 2010 the DWP stated that if the new proposals become law, SPA will change for:

- women born between 6 April 1953 and 5 April 1960; and
- men born between 6 December 1953 and 5 April 1960.

This means that the SPA for women will be increased more rapidly between April 2016 and November 2018 so that it will be the same as the SPA for men.

The Government is also currently considering the timetable for future increases to SPA from 66 to 68.

DWP publishes two new guides

Today (1 November 2010), the DWP published two new guides for individuals:

- Benefit and pension rates: provides a list of standard benefits and the basic rates of benefits from October 2010. It includes details of the basic state pension and the pension credit.

- Contracted-out state pensions: explains, among other things, how contracting-out works, how to rejoin the state scheme, and the implications for existing members of contracted-out money purchase schemes which will cease to be contracted-out in April 2012. (For more information on the cessation of contracting-out, see our Alert: "Abolition of DC contracting out: consultation on implementing legislation" dated 30 July 2010.)

New research reports published

The DWP has recently published a number of research reports (RR):

- Communicating with customers of retirement age (RR 703)

  The results of this research, carried out to explore the attitudes and perceptions of people in retirement, are intended to enhance the way in which the Pension, Disability and Carers Service categorises different types of pensioner and targets their communication strategy as a result.

- Communicating with customers approaching retirement (RR 702)

  This report was commissioned to help the DWP understand the communication and information needs of customers approaching retirement, to inform the development of efficient and effective communication strategies.

- Attitudes To Pensions: The 2009 Survey (RR 701)

  This survey explores people's attitudes towards pensions and their expectations for retirement, as well as examining views on associated topics such as saving, risk and financial decision-making. It updates and expands on the first 'Attitudes to Pensions' survey carried out in 2006.

  The DWP notes that the findings reveal that 59% of workers in the private sector do not currently contribute to a workplace pension and suggests that many could be missing out by not even finding out about the pension on offer as an important part of their employee benefits package.

  DWP Press Release

EUROPEAN UNION

Agreement reached on AIFM Directive

On 26 October 2010, the European Parliament and Council announced that they had reached agreement on the Alternative Investment Fund Managers (AIFM) Directive.

The Directive is designed to create an EU-wide regulatory AIFM framework for managers established in the EU. It will introduce "new and robust rules" on transparency, the safe-keeping of assets, risk management and leverage control, and will increase the powers of local regulators.

It will also launch a "passport" system to allow hedge funds authorised in one EU Member State to operate in any other EU Member State. Although initially only available to EU funds and their managers, non-EU alternative investment funds and managers who meet minimum regulatory standards and have agreements in place with Member States to allow information sharing will also eventually be able to market to investors across the EU.

The next step is for the EU Parliament to approve the Directive. It is expected that this will take place at the Parliament's plenary session on 11 November 2010. When the Directive comes into force, Member States will have two years to incorporate its provisions into national laws.

European Parliament Press Release

NATIONAL EMPLOYMENT SAVINGS TRUST

Fund administration contract awarded to State Street Corporation

NEST Corporation has today (1 November 2010) announced that it as awarded the contract for fund administration services to State Street Corporation. State Street Corporation will provide end-to-end fund administration and custody services to NEST.

The contract has been signed in two stages. The first stage runs to late November. NEST notes that this is to ensure "it 'joins up' with the decision to proceed with the scheme administration contact" (with Tata Consultancy Services (TCS)). While NEST Corporation states that it "is confident TCS is the right supplier to deliver scheme administration services for NEST", there is a break clause in the agreement. This means that the NEST trustees are still required to make the formal decision in November, in partnership with the Government.

The main fund administration contract is for 10 years.

NEST is also preparing to advertise for fund managers for a number of investment mandates. Those adverts are due to appear in the Official Journal of the European Union later this week.

NEST Press Release

OFFICE FOR NATIONAL STATISTICS (ONS)

Occupational pension schemes in 2009

The ONS has published its latest data on occupational pension scheme membership in 2009. The data indicates that total membership of occupational schemes remained steady, with an estimated 27.7 million members - the same as in 2008.

It is estimated that there were 15 million private pension scheme members in 2009 and 12.7 million members in the public sector. While active membership of private sector DB schemes fell (from an estimated 2.6 million in 2008 to an estimated 2.4 million in 2009) active membership of private sector DC schemes and public sector DB schemes remained stable at 1 million and 5.4 million respectively.

ONS Press Release

PENSION PROTECTION FUND

PPF Annual Report

The PPF has today (1 November 2010) announced the publication of its Annual Report and Accounts for 2009/10.

The PPF's figures show a reserve of almost £400 million over its liabilities (a funding position of 103%). This represents a significant improvement on the 12 months to 31 March 2009, when a deficit of £1.2 billion was reported. The PPF puts the improvement down to improvements in the financial markets and the fact that claims during the year were less costly than anticipated.

PPF Press Release

THE PENSIONS REGULATOR

TPR publishes analysis of DC schemes

TPR has published its second edition of DC Trust - a presentation of the pension scheme return data held by TPR, focusing on occupational trust-based DC schemes and their memberships. The publication is based on the data of around 47,000 schemes. It does not attempt to replicate information on the DB pension landscape, which TPR includes in its "Purple Book".

TPR explains that the publication is designed to provide a high-level snapshot of the current landscape of occupational trust-based DC pension provision in the UK. This includes DC membership of hybrid dual section schemes - schemes with both a DB section and a DC section, as opposed to mixed benefits schemes, which offer one set of benefits with both DB and DC elements (such as a DC scheme with a guaranteed minimum pension underpin).

Key findings from the report include:

- total DC membership of around 2.5 million;
- of the 47,000 DC trust-based schemes, more than 90% have fewer than 12 members, the majority of which are very small schemes. Only 130 schemes have more than 10,000 DC memberships;
- hybrid schemes account for 25% of all schemes with more than 12 members and make up more than 40% of all DC memberships;
- around 60% of all DC memberships are deferred, leaving around 1 million active (contributing) members of occupational DC schemes. There are few pensioner members of DC schemes as most purchase an annuity in their own name on retirement; and
- the majority of contributions to DC schemes are paid by employers - around 75% of the total contributions.

Of TPR's continuing campaign to improve the governance of DC schemes, acting chief executive, Bill Galvin, said: "We are increasingly focused on limiting the risks and achieving good outcomes for members in DC schemes. We intend to publish our thoughts on this important issue shortly."

TPR Press Release