

Pensions Act 2004 – timetable for change

2004 has been a busy year for pensions, with much Parliamentary time dedicated to pensions reform. Although the Pensions Act 2004 (PA 2004) has received Royal Assent, the road to implementation still lies ahead. Trustees and employers need to be ready for the new requirements coming into force. Here we look at some key changes currently timetabled for 2005 and 2006¹.

New legislation is born!

PA 2004

- Building on the foundations of pensions protection laid by the Pensions Act 1995, PA 2004 has four major themes:
 - the Pensions Regulator (TPR);
 - the Pension Protection Fund (PPF);
 - the statutory funding objective;
 - the standard of care and composition of trustee boards.
- Like the 1995 Act, many of the provisions of PA 2004 are overriding but scheme changes may still need to be made.

6 April 2005

Key changes

- TPR lives and takes over the functions of the dissolved Opra (Occupational Pensions Regulatory Authority).
- The PPF is established.
- The statutory cap on increases in pensions in payment is reduced from 5% to 2.5% for future pensionable service (although check scheme rules to see if the new cap will override).

6 April 2005

Supporting the PPF

- “Moral Hazard” provisions introduced to prevent employers walking away from scheme debts (retrospective to 27 April 2004).
- New debt provisions where an employer withdraws from an on-going multi-employer scheme raised to full buy-out cost².
- New scheme priority order on wind-up with PPF liabilities high up the list.

¹ We will consider the tax simplification timetable under the Finance Act 2004 separately

² From “early 2005” the debt for an insolvent employer will also be increased to full buy-out

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And there's more

- Financial Assistance Scheme, possibly retrospective to 1 January 1997 (but the parameters and eligibility are yet to be finalised).
- Pension protection on transfer of employment under TUPE³.
- New internal dispute resolution procedures (regulations awaited).
- TPR powers to deal with pensions liberation (bogus pension transfers).

September 2005

Replacing the MFR

- The statutory funding objective (SFO) introduced, coupled with the requirement for Statements of Funding Principles (transitional provisions likely).
- Enabling cross-border pension provision (which stems from the same EU Directive as the SFO).

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And the rest...

- New member-nominated trustee (MNT) provisions – almost all schemes to have one-third MNTs (moving to 50% at a later date).
- Trustee knowledge and understanding requirements.
- The more flexible section 67 (modification of schemes).
- Consultation requirements when changing certain future benefits.
- New rights for early leavers.
- Abolition of requirement to offer additional voluntary contribution facilities (scheduled to tie in with tax simplification).

Back to 2005

The year ahead...

- During the passage of the Pensions Bill through Parliament, Baroness Hollis said that "the latest check has shown more than 100 different sets of regulations" will be required under PA 2004.
- Current indications are also that there will be over 10 initial codes of practice published.
- Given this, the DWP are unsurprisingly focusing on producing regulations etc. to meet the 6 April 2005 commencement date first.

³ The Transfer of Undertakings (Protection of Employment) Regulations 1981

This edition of Sackers Extra News is part of a series focusing specifically on pensions reform. Our Pensions Reform Team will continue to keep you abreast of the key issues throughout this period of pensions simplification. If you would like further information please contact:

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