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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

ECJ: European Court of Justice

FAS: Financial Assistance Scheme

HMRC: HM Revenue & Customs

NEST: National Employment Savings Trust

PPF: Pension Protection Fund

TPR: The Pensions Regulator

LEGISLATION**Pensions Act 2011**

A number of provisions of the Pensions Act 2011 (the Act) come into force today (3 January 2012).

Surplus payments: Section 251 Pensions Act 2004

The Act specifies that section 25, which amends section 251 of the Pensions Act 2004, will come into force two months after Royal Assent (i.e. on 3 January 2012).

Section 251 provides pension scheme trustees with a transitional power to pass a resolution to confirm or amend powers in their scheme rules to make payments to the employer after A-Day (6 April 2006). With effect from 3 January 2012, the Act gives trustees until 6 April 2016 to take action to preserve such powers. Our understanding is that the Government's intention was to make it clear that section 251 only applies to payments made to employers under section 37 of the Pensions Act 1995, however, there remain concerns that payments of surplus on wind-up have not been specifically excluded. It may therefore be preferable for schemes with such powers to pass a resolution covering these powers. This should be discussed with your usual Sackers contact.

The Pensions Act 2011 (Commencement No. 1) Order 2011

The first commencement order for the Pensions Act 2011 also brings into force a number of provisions.

Already effective (from 1 January 2012), are measures to use CPI rather than RPI as the basis for PPF compensation.

Measures which take effect from today (3 January 2012) include:

- the requirement for an annual review of the auto-enrolment earnings trigger and the qualifying earnings band (section 8);
 - amendments in relation to indexation and revaluation, following the Government's switch from RPI to CPI as the measure for increases to pensions in payment and in deferment (section 19);
 - the removal of indexation for cash balance schemes (section 21);
 - certain changes to the PPF procedure (section 22 and Schedule 4);
 - certain changes to the financial assistance scheme (sections 23 and 24); and
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- changes to the time periods for TPR to issue contribution notices and financial support directions (section 26).

Provisions relating to the abolition of certain additions to the state pension will be brought into force by this Order from 6 April 2012.

Pensions Act 2008: Commencement Order

The Pensions Act 2008 (Commencement No.11) Order 2011 brings into force (with effect from 3 January 2012) certain provisions of the Pensions Act 2008, including:

- the introduction of a regulation making power in relation to the monitoring of employers' payments to personal pension schemes under section 111A of the Pension Schemes Act 1993, and extends this provision to "jobholders", ahead of the introduction of automatic enrolment later this year (section 49); and
- minor and consequential amendments to the Social Security Contributions and Benefits Act 1992, to consolidate the additional state pension.

ASSOCIATION OF BRITISH INSURERS

Shopping around for retirement income: Consultation on draft code of conduct for ABI members

In September 2011, the ABI announced that it would introduce a compulsory code, to be binding on all of its members, which is designed to actively encourage people to shop around for an annuity on retirement. A [draft version](#) of this code has now been published for consultation.

It is proposed that under the code, ABI members would remove the annuity application form from the communications they send to their customers, with the aim of stopping consumers automatically rolling over their pension savings to an annuity with their current provider. The ABI also intends that the new code will ensure that consumers receive all the information they need to shop around in one easily accessible place.

The consultation closes on 3 February 2011.

[ABI Press Release](#)

ASSOCIATION OF CONSULTING ACTUARIES (ACA)

Pension Trends Survey 2011

The ACA has today (3 January 2012) published its [2011 Pension Trends Survey](#).

ACA Chairman, Stuart Southall, notes that although the introduction of automatic enrolment later this year should widen pension coverage, there is a rising trend amongst private sector employers to review existing pension arrangements and seek ways to reduce their pension costs.

Key findings from the report include:

- nine out of ten private sector DB schemes are now closed to new entrants and four out of ten are closed to future accrual;
- 25% private sector employers are looking to buy-out or buy-in all their DB scheme liabilities in the next five years, rising to 40% within a decade;
- around three quarters of employers say they are likely to automatically enrol all employees into their existing workplace pension scheme but 27% say they are likely to review their existing arrangements to mitigate the cost of higher scheme membership; and
- a clear majority of employers currently operating DC schemes are at present reluctant to merge their schemes into larger schemes for employers which are not necessarily associated.

[ACA Press Release](#)

BOARD FOR ACTUARIAL STANDARDS (BAS)

Statutory Money Purchase Illustrations: Revised rules published

On 22 December 2011, the BAS published a new version of [Technical Memorandum \(TM1\): Statutory Money Purchase Illustrations](#).

TM1 sets out the assumptions which are to be used in statutory money purchase illustrations (SMPs). The changes to TM1 include:

- the restructuring of TM1 to make it shorter and easier to follow, with some guidance now included in an [accompanying document](#);
- the updating of mortality assumptions so that they better reflect current market practice; and
- text which emphasises that providers of SMPs must take proper account of potential investment returns when settling the long-term investment assumption used in their projections.

[BAS Press Release](#)

HM REVENUE & CUSTOMS

Pension Scheme Returns and Event Returns: January 2012 submission deadlines

HMRC has issued a [reminder](#) that the deadline for submitting Registered Pension Scheme Returns and Event Reports for the 2010/11 tax year is 31 January 2012.

These returns and reports are required to be sent to Pension Schemes Services using Pension Schemes Online. Anyone needing to sign up for the Pension Schemes Online service will need to register by 13 January 2012 to enable the 31 January deadline to be met.

Pension Schemes Newsletter 51

HMRC published [Pension Schemes Newsletter 51](#) on 20 December 2011. The newsletter includes:

- details of the requirements for notifying HMRC Pension Schemes Services of changes of scheme administrator (the person responsible for the day-to-day running of the scheme) for contracted-out pension schemes. HMRC will only accept information from the scheme's principal employer or from the scheme trustee – HMRC will no longer accept changes of details from former or new administrators;
- guidance on the new tax rules (introduced by the Finance Act 2011) on employment income provided through third parties, which may be relevant to employers who provide employer financed retirement benefit schemes;
- details of the recent consultation on small pension pots, as well the responses to the 2011 consultation on asset backed contributions; and
- notice that HMRC is working on the next batch of amendments to the Registered Pension Schemes Manual (RPSM), following changes made by the Finance Act 2011, which are due to be published in January 2012.

Draft guidance: Commutation of small personal pension funds

On 20 December 2011, HMRC published [draft guidance](#) on the commutation of small pension pots. This follows the publication by the DWP (on 15 December 2011) of [plans](#) (including draft regulations) which are aimed at ensuring that "money saved into a pension stays in a pension".

In its consultation, the DWP is looking at options to address the proliferation of small pension pots (of £2,000 or less), including consolidating pensions in one or more "aggregator" schemes or enabling them to move with people from job to job. HMRC's draft guidance explains how the regulations are intended to apply. The guidance will be incorporated into the RPSM once the regulations come into force.

For more information on the consultation, please see our Alert: "[Government consults on transfers and small pension pots](#)" dated 19 December 2011.

Draft Guidance: Overseas transfers of pension savings

HMRC has also published [draft guidance](#) in connection with draft DWP regulations on changes to the system for transfers of pension savings to Qualifying Recognised Overseas Pension Schemes (QROPS) which were published on 6 December 2011.

The guidance is expected to take effect from 6 April 2012.

PUBLIC SECTOR PENSION REFORM

HM Treasury Statement

On 20 December 2011, the Government set out the "[final position](#)" reached with trades unions on public service pension reform, including the main elements of scheme design to be introduced in 2015.

HM Treasury reported that Heads of Agreement were reached with the NHS Pension Scheme, the Principal Civil Service Pension Scheme, the Teachers' Pension Scheme and the Local Government Pension Scheme and that the Trades unions had agreed to take the Heads of Agreement to their executives. However, at least one union has rejected the Government's latest offer. We continue to monitor developments.

[HM Treasury Press Release](#)

Government Actuary's Department (GAD)

Following the Treasury's latest statement on public sector pensions, GAD published an [update](#) on the impact of the reforms to date. GAD notes that:

- following publication of the Government responses to the consultations on changes to employee contribution rates (which will be effective from April 2012) in the Principal Civil Service Pension Scheme (Great Britain), the National Health Service Pension Scheme (England & Wales) and the Teachers' Pension Scheme (England & Wales), contractors may incorporate these revised rates or make allowances for them in their proposals for providing a broadly comparable pension scheme under the Fair Deal policy; and
- existing certificates of broad comparability are not being withdrawn and will continue to be valid, with allowance for employee contribution rates in line with those set out in the relevant certificate. GAD is, however, considering special arrangements for contractors who wish to amend their existing certificate in order to reflect the changes to employee contribution rates in public service pension scheme from 1 April 2012 for future transferees.

GAD intends to circulate further information as it becomes available.

THE PENSIONS REGULATOR

Gearing-up for automatic-enrolment: TPR calls on the payroll software industry

TPR published an [open letter](#) to the payroll software industry on 21 December 2011, calling on it to share details of planned product offerings and delivery timescales. TPR notes that this information will be particularly important for those employers who need to be ready for automatic enrolment within the next 18 months.

[TPR Press Release](#)

Research on employers' automatic enrolment preparations

TPR has also published a report of research connected with the forthcoming automatic enrolment obligation: "[Employers' awareness, understanding and activity relating to workplace pension reforms](#)".

This research, which is carried out approximately every six months, provides a snapshot of the progress that employers are making in their preparations in the run-up to the introduction of automatic enrolment. It indicates that there are improving levels of awareness and understanding among small and medium sized employers, while awareness of the reforms remains high among large employers.

[TPR Press Release](#)