

Pensions law – the week in review

6 April 2009

AT A GLANCE

LEGISLATION

- The Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009
- The Occupational Pension Schemes (Levy Ceiling) Order 2009
- The Pension Protection Fund (Pension Compensation Cap) Order 2009
- The Pensions Act 2008 (Commencement No. 3 and Consequential Provisions) Order 2009

DEPARTMENT FOR WORK AND PENSIONS

- Consultation on draft actuarial guidance

1 LEGISLATION

1.1 The Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009

These regulations (which came into force on 27 March 2009) make a further extension to the Financial Assistance Scheme (FAS). They provide for early unreduced payment of assistance by FAS to certain qualifying members who are aged 55 or over and who are not terminally ill, but have a significantly shortened life expectancy.

To access the regulations, please click on the link below:

http://www.opsi.gov.uk/si/si2009/uksi_20090792_en_1

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1.2 The Occupational Pension Schemes (Levy Ceiling) Order 2009

The Board of the Pension Protection Fund (PPF) imposes the pension protection levy on schemes. This levy is restricted in accordance with the levy ceiling, which is determined by the Secretary of State.

The levy ceiling for the financial year beginning on 1 April 2009 is £863,412,967.

To access the Order, please click on the link below:

http://www.opsi.gov.uk/si/si2009/uksi_20090794_en_1

1.3 The Pension Protection Fund (Pension Compensation Cap) Order 2009

The compensation payable to defined benefit pension scheme members under the PPF depends upon an individual's circumstances immediately before the start of an assessment period. For example, ill-health retirees and members who have reached their scheme's normal pension age will generally receive 100% of their benefits. However, non-pensioners and other early retirees will only receive up to 90%, subject to an overall "compensation cap".

From 1 April 2009 the compensation cap has been increased to £31,936.32 (representing a 3.5% increase from 2008/09). When applying the new compensation cap to members whose PPF entitlement is restricted to 90% of benefits, the maximum level of compensation payable to an individual at age 65 will be £28,742.68.

To access the Order and the PPF's announcement of 2 April 2009, please click on the links below:

http://www.opsi.gov.uk/si/si2009/uksi_20090795_en_1

<http://www.pensionprotectionfund.org.uk/news-details.htm?id=7078>

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1.4 The Pensions Act 2008 (Commencement No. 3 and Consequential Provisions) Order 2009

Following changes made by the Pensions Act 2008, the statutory cap on revaluing defined benefit pensions in deferment reduces from 5% to 2.5% with effect from 6 April 2009.¹

This Order brings into force a corresponding change in relation to compensation payable by the PPF. It also implements measures (with effect from 1 April 2009) designed to allow the PPF to pay lump sum compensation to members of qualifying schemes that have not reached normal pension age but who are terminally ill.

To view the Order, please follow the link below:

http://www.opsi.gov.uk/si/si2009/pdf/uksi_20090809_en.pdf

2 DEPARTMENT FOR WORK AND PENSIONS (DWP)

2.1 Consultation on draft actuarial guidance

Back in December 2007, the Government announced substantial reforms to FAS. These included extending FAS so that those eligible for help would receive 90% of their promised benefits (subject to a cap), and the inclusion of certain schemes with solvent employers.² This extension was to be funded, in part, by transferring into Government the residual assets of FAS qualifying schemes that have yet to complete winding-up.

¹ For further information, see our Alert: "When draft regulations are born!" dated 10 December 2008

² For further information, see our Alert: "FAS is for life, not just for Christmas" dated 18 December 2007

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On 2 April 2009, the DWP issued a consultation on draft guidance on the method and assumptions that will apply when actuaries undertake valuations in respect of FAS qualifying schemes to facilitate such transfers. This is ahead of further consultation on regulations that will enable such transfers to take place (which is intended to be published over the summer).

The consultation is technical and aimed primarily at pension scheme actuaries. It closes on 15 May 2009.

To view the consultation document, please click on the link below:

<http://www.dwp.gov.uk/consultations/2009/fas-actuarial-consultation.pdf>



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