

# alert

## ANOTHER YEAR, ANOTHER PENSIONS BILL

### 1 INTRODUCTION

For the second year in a row, a new Pensions Bill has been introduced into Parliament. Although many clauses are devoted to the future introduction of personal accounts (currently scheduled for 2012)<sup>1</sup>, there are some key points to note for trustees and employers of occupational pension schemes.

A copy of the Bill (together with the various Deregulatory Review documents referred to in this Alert) can be found below:

<http://www.dwp.gov.uk/pensionsreform/>

### 2 KEY POINTS

- Details of the new personal accounts system (and how it interrelates with occupational pensions) are set out in the Bill (see sections 3 and 4).
- As promised in the Government's response to the Deregulatory Review<sup>2</sup> (published on 22 October 2007), pension sharing changes and a reduction in the cap on revaluing deferred pensions are included (see section 5).
- The Regulator's powers to intervene in relation to the funding of defined benefit schemes are being beefed up (see section 6).
- Quite separately, and following a brief consultation, the Government has also released a further response dated 5 December 2007 on the Deregulatory Review.

<sup>1</sup> Sackers Extra Alert: "Pensions Saving Gets Personal" dated 20 December 2006

<sup>2</sup> Sackers Extra Alert: "Action and Reaction: MNTs and the Deregulatory Review" dated 26 October 2007

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### 3 PERSONAL ACCOUNTS

As expected, the Bill lays down the framework for personal accounts. This includes providing powers to establish the scheme (under an irrevocable trust) and to design it (a task assigned to the Personal Accounts Delivery Authority). Personal accounts will be managed by a board of trustees who, in turn, will be supported by both an employers' and a members' panel.

Some of the key features of the new system are as follows:

- Subject to their ability to opt-out, eligible employees (or "jobholders" under the Bill) will have to be automatically enrolled into either a personal account or an employer sponsored scheme which meets the relevant "quality requirement". This applies to employees<sup>3</sup> aged 22 and over (but below state pension age), who earn more than around £5,000 a year.
- Employees will contribute a minimum of 4% of their "qualifying earnings"<sup>4</sup>, matched by a minimum 3% employer contribution and 1% in tax relief.
- Provisions will ensure that personal accounts complement, rather than compete with, existing employer pension provision. For example, there will be a contribution limit.
- The Pensions Regulator is the body responsible for ensuring that employers comply with the new requirements and will be able to impose penalties for non-compliance.

### 4 EFFECT ON OCCUPATIONAL PENSION SCHEMES?

Employers who currently offer employees access to an occupational pension scheme will

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<sup>3</sup> The Bill also makes provision for automatic enrolment etc. of agency workers, allocating responsibility to either the agent or the "principal" (as appropriate)

<sup>4</sup> Between £5,035 and £33,540 based on 2006/07 figures

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need to ensure that they meet the automatic enrolment requirements, including re-enrolment at regular intervals (approximately every three years). Trustees will be able to amend scheme rules by resolution for this purpose, subject to employer consent.

In addition, employers (and trustees) will need to check whether their schemes measure up to the “quality requirement”. Not surprisingly, a contracted-out defined benefit scheme should achieve this threshold, whilst contracted-in defined benefit schemes will be pitched against a “test scheme” (using a 1/120<sup>th</sup> accrual rate over a maximum of 40 years). For defined contribution schemes, the employer contribution requirements are as for personal accounts (so a 3% minimum), but overall contributions must be at least 8%.

## **5 THE “SIMPLIFICATION” CLAUSES**

There are currently a mere two clauses in the Bill aimed specifically at easing the legislative burden on occupational pension schemes:

### *Pension sharing on divorce*

Legislative requirements which apply to “safeguarded rights”<sup>5</sup> will be abolished. There are also new clauses intended to cure a long-standing problem – the inability to share pensions once benefits have been transferred to the Pension Protection Fund (PPF).

### *Reduction in the cap on revaluation*

The Bill also makes provision to reduce the cap on revaluing deferred pensions from 5 per cent compound to 2.5%. This change is intended to affect benefits which accrue in respect of pensionable service on or after the Bill comes into force only. So, although this change comes under the banner of “Simplification” in the Bill, with different periods of pensionable service needing to be revalued on different bases for different members, will this change live up to its billing?

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<sup>5</sup> Pension credit benefits derived from contracted-out rights

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### 6 MISCELLANEOUS

- The Regulator can already act as a tie-breaker where trustees and employers are unable to reach agreement about scheme specific funding (the scheme's "technical provisions"). In these circumstances, the Regulator can impose a schedule of contributions, modify benefits going forward, and also give directions both about calculating the scheme's technical provisions and any recovery plan. The Bill will further extend the Regulator's powers so that it can step in if it has concerns that the actuarial methods or assumptions used in calculating the scheme's technical provisions do not appear to be prudent.
- An ability to charge interest on the late payment of various levies, including the general scheme levy and the PPF levies, is being introduced.

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