Sackers extra

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### 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
**GMP:** Guaranteed Minimum Pension
**HMRC:** HM Revenue & Customs
**NEST:** National Employment Savings Trust
**PPF:** Pension Protection Fund
**TPR:** The Pensions Regulator

# LEGISLATION

### Pension Protection Fund (Miscellaneous Amendments) Regulations 2012

These regulations (which come into force on 23 July 2012) make various amendments to existing secondary legislation to change how the assets and liabilities of an occupational pension scheme can be valued as part of the assessment process for entry to the PPF. They also make changes to the information a scheme has to provide when making an application to be reconsidered for entry to the Fund.

The amendments are consequential on amendments being made to the Pensions Act 2004 by the Pensions Act 2011. For further detail please refer to the PPF paragraph below.

Explanatory memorandum

# DEPARTMENT FOR WORK AND PENSIONS

### Guidance on scheme certification for automatic enrolment

The DWP has published detailed guidance on certifying DB and hybrid schemes for automatic enrolment which is aimed at helping firms to continue to use existing schemes, rather than setting up a new one for the auto-enrolment reforms.

### Webb challenges industry to provide good value guarantees for pensions

On 3 July 2012, Steve Webb, the Pensions Minister, laid down a challenge to the industry that pension provision in the future has to provide more certainty for people about what their pension income might be.

He urged industry experts to seize on the "gap in the market" for innovative pension products which might include some form of cost efficient guarantee.

Later in the year the DWP will set out ideas for the kind of regime envisaged through "Defined Ambition" pensions – a new destination, providing a middle ground, moving on from pure DB and pure DC.

Ideas include:

- exploring how increasing the scale of pension schemes might create new opportunities for greater efficiency, different forms of risk sharing, investment strategies and guarantees;

- addressing member loss aversion and calls for greater certainty by exploring the scope for guarantees in pensions other than DB – for example utilising insurance, investment strategies, employers;
- exploring at the lower end of the scale how nominal guarantees could function to provide more certainty in outcomes;
- exploring how risk sharing, intergenerational and/or with an employer could be made to work; and
- focusing on the needs of the customer and how far provision can be framed around a consumer segment averse to complexity and risk.

# HM TREASURY

### Public service pensions

On 20 December 2011, the Chief Secretary to the Treasury, Danny Alexander, set out to the House of Commons the main elements of the new public service pension scheme designs, following the agreements reached with the majority of unions representing health, civil service and teachers' workers. Departments continued to engage with trades unions to finalise the remaining details of the new schemes. Those discussions concluded earlier this year, with proposed final agreements being reached.

On 4 July 2012, Danny Alexander confirmed that the Government would be taking forward legislation on the basis of these final agreements during the current Parliamentary Session.

He also confirmed that the Government has reviewed the Fair Deal policy[1] and agreed to maintain the overall approach, but deliver this by offering access to public service pension schemes for transferring staff. When implemented, this will mean that all staff whose employment is compulsorily transferred from the public service under The Transfer of Undertakings Protection of Employment Regulations 2006 (TUPE), including subsequent TUPE transfers, to independent providers of public services will retain membership of their current employer's pension arrangements. These arrangements will replace the current broad comparability and bulk transfer approach under Fair Deal, which will then no longer apply. The Government will bring forward detailed proposals for implementing this in the autumn.

# PENSION PROTECTION FUND

### Consultation on funding determinations

The PPF has published a consultation on funding determinations and amendments to section 151 (Application for reconsideration) in the PPF (Miscellaneous Amendments) Regulations 2012 (the Regulations) (see above).

The Regulations are intended to exercise powers conferred by sections 143 (Valuation) and 151 of the Pensions Act 2004, as amended by the Pensions Act 2011.

Changes introduced in the Pensions Act 2011 will:

- make it possible for the PPF to use a funding determination in place of a section 143 valuation; and

[1] The "Fair Deal" is a non-statutory policy applying to pension provision for public sector staff when they are compulsorily transferred to a non-public sector employer. It requires the new employer to provide a broadly comparable pension scheme for the transferred staff and bulk transfer arrangements for those staff who wish to transfer their public service pension benefits.

allow a scheme to make an application for reconsideration under section 151 if they are unable to obtain a protected benefits quotation.[2]

The PPF proposes to start using the changes introduced by the Regulations as soon as it has had time to consider the responses to this consultation and subsequently published its statement.

The consultation closes on 29 July 2012.

# THE PENSIONS REGULATOR

### Annual report and accounts

TPR has published its annual report and accounts for 2011/12.

Chief executive of TPR, Bill Galvin, said:

"In 2011/12, [TPR] had two main tasks: to prepare the ground for automatic enrolment and to work with DB schemes and sponsors through challenging times for funding plans. This report presents strong progress and significant achievements in both areas."

Press release

# THE TAKEOVER PANEL

### Consultation on pension scheme trustee issues

In the response statement to the Code Committee of the Takeover Panel's (the "Code Committee") review of certain aspects of the regulation of takeover bids, the Code Committee noted that a number of trustees and their advisers had responded to the consultation, indicating that the provisions of the Code which apply to the employee representatives of the offeree company's pension scheme should be extended to apply to the trustees of the offeree company's pension scheme.

On 5 July 2012, the Code Committee published a consultation on proposals to amend the Code to, among other matters, require the offeror to state in the offer document its intentions with regards to the offeree company's pension scheme and the likely repercussions of its strategic plans for the offeree company on the scheme. Crucially, the board of the offeree company would be required to append to its circular an opinion from the trustees of its pension scheme(s) giving their views on the offer, provided that it is received in good time.

The consultation closes on 28 September 2012.

[2] A quotation from an insurance provider of the costs of buying an annuity policy to secure scheme members' benefits at the level of compensation they would receive if the scheme transferred to the PPF