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

The switch from RPI to CPI: Employer consultation requirement introduced

The Pensions (Institute and Faculty of Actuaries and Consultation by Employers – Amendment) Regulations 2012 were laid before Parliament on 8 March 2012.

- The regulations amend the pension consultation regulations[1] to introduce a requirement for employers to consult with members before the rate at which pensions are revalued or indexed can be changed in an occupational pension scheme. However, no such consultation is required if the change is, or is likely to be, beneficial or neutral for the member;

- The regulations also make consequential amendments to a number of regulations to update references following the merger of the Institute of Actuaries and the Faculty of Actuaries in Scotland into the Institute and Faculty of Actuaries from 1 August 2010.

The regulations will come into force on 6 April 2012. Further information can be found in the explanatory memorandum which accompanies the regulations.

Abolition of protected rights: Consequential amendments

From 6 April 2012, DC contracting-out will be abolished. The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) (Amendment) Order 2012 (which will come into force immediately before 6 April 2012), makes consequential amendments to primary legislation as a result of the abolition.

The amendments made by the order include the removal of protection given to protected rights payments in bankruptcy proceedings and the removal of the prohibition on assigning protected rights payments, as such payments will no longer be identifiable after the abolition date.

Further information can be found in the explanatory memorandum which accompanies the order.

For further information on the abolition of DC contacting-out generally, please see our Alert: "Abolition of DC contracting-out: Final regulations published" (dated 1 March 2012).

[1] The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006

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GMP Increase Order

The Guaranteed Minimum Pensions Increase Order 2012 specifies that the increase payable by contracted-out occupational DB pension schemes in respect of GMPs will be capped at 3% with effect from 6 April 2012. Note that this is a capped figure.

Further information can be found in the explanatory memorandum which accompanies the order.

Automatic enrolment: Commencement Orders

Two commencement orders were laid before Parliament on 3 March, bringing into force further auto-enrolment provisions in the Pensions Acts 2008 and 2011:

- The Pensions Act 2008 (Commencement No. 12) Order 2012 brings into force the power for employers to self-certify the statutory quality requirements for DC schemes; and

- The Pensions Act 2011 (Commencement No. 2) Order 2012 introduces new section 15A into the Pensions Act 2008, which provides for revised amounts for the earnings trigger and qualifying earnings band to be rounded figures following a review. This order also brings into force provisions which:

  - permit employers to use alternative requirements to meet the certification test; and

  - certify a DC or hybrid scheme which has its main administration in an EEA state other than the UK and personal pension schemes that have their main administration outside the United Kingdom.

Private Members bill introduced to House of Commons

On 1 March 2012, the Private Pensions (Charges, Disclosure and Accountability) Bill 2010-12 had its first Reading in the House of Commons.

This Private Members' Bill was introduced by the Labour MP for Harrow West, Gareth Thomas. The aim of the Bill is to require firms which offer regulated private pensions to:

- exercise a fiduciary duty of care to consumers and other users of financial services;

- exercise due diligence when making decisions on behalf of consumers;

- provide clear information to consumers on all charges and costs paid by the consumer or the pension fund on the consumer's behalf and to disclose any conflict of interest and potential conflict of interest including commercial relationships that might result in or be perceived to result in financial detriment to consumers or undermine the integrity of financial markets;

- make provision for disclosure by postcode of the location of investors in private pension funds; and

- make provision for an Annual General Meeting for each private pension fund.

The text of the Bill will be made available shortly before the second reading in the House of Commons, currently scheduled for 27 April 2012.

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ASSOCIATION OF BRITISH INSURERS (ABI)

Code of Conduct on Retirement Choices

On 5 March 2012, the ABI launched a compulsory Code of Conduct which is designed to ensure that those who are approaching retirement will receive much greater support to get the best possible retirement income.

According to ABI research, one third of people do not shop around for an annuity when they reach retirement and, as a result, may be missing out on a higher income, potentially losing thousands of pounds over the course of their retirement. In addition, many customers who could qualify for an enhanced annuity, due to medical conditions or lifestyle choices, buy a conventional annuity, which may mean they miss out on a higher income during retirement.

The ABI's Code of Conduct on Retirement Choices is therefore designed to ensure that customers have access to information to enable them to make an informed decisions about annuities which are appropriate to their needs and lifestyle in retirement.

The Code of Conduct will require the ABI's members to:

- provide clear and consistent communications to ensure that customers are able to make informed and proactive decisions about retirement income products and that they are able to shop around for the most appropriate product;
- highlight enhanced annuities prominently and the much higher income they can potentially offer, and inform customers whether they offer these products, and how to find out who does;
- clearly signpost customers to advice and support, both from regulated advisers and government-backed advice organisations; and
- establish transparency in the annuity market so that customers have a clear picture of how individual providers' product offerings fit in with the wider market.

The Code of Conduct must be implemented by ABI members by 1 March 2013.

ABI Press Release

HM REVENUE & CUSTOMS

Pensions Schemes Newsletter 52

The latest edition of HMRC's Pension Schemes Newsletter was published on 8 March 2012. Among other things, it covers:

- a reminder to individuals wishing to rely on fixed protection that they need to apply by 5 April 2012 at the latest by completing application form APSS227;
- guidance on the "relevant percentage" in connection with increases to deferred pension rights. Where the trustees (or some other person) have discretion to override a cap on increases in years where the specified rate exceeds the cap, the relevant percentage will be the appropriate annual increase in CPI; and

- the position for one-off pension increases awarded to pensioner members of a registered pension scheme as a result of a Pension Increase Exchange (PIE) in connection with the "excepted circumstances" that apply for the purposes of Benefit Crystallisation Event (BCE) 3. HMRC sets out its interpretation of what constitute excepted circumstances and when they would apply in relation to a PIE.

NATIONAL ASSOCIATION OF PENSION FUNDS

NAPF Report: Exceptional times, exceptional measures?

The NAPF has published a briefing paper on the latest economic developments and the impact on UK pension schemes and members, in which it updates its analysis of the impacts of quantitative easing (QE). The paper summarises the results of a survey with NAPF fund members on the impact of current market conditions and the responses they would like to see from TPR and others.

Among the NAPF's key findings are that:

- the first £200bn of QE pushed down gilt yields by around 100 basis points, which would have increased liabilities by around 20% compared to early 2009, or around £180bn;

- the second £125bn of QE has so far seen gilt yields fall back down to the levels they were at in the autumn of 2009, and around 70 basis points below where they were last summer, potentially increasing liabilities by another £125bn or so. Those gilt movements alone, along with some offsetting increases in the value of assets (around £30bn) will mean the aggregate deficit of private sector DB schemes will have increased by around £90bn since the summer of 2011; and

- respondents would like TPR to say something explicit about the use of more stable, longer-term discount rates and would like TPR to extend recovery plans.

NAPF Press Release

Workplace pensions survey 2012

On 7 March 2012, the NAPF published a report which summarises the findings from its Workplace Pensions Survey. This survey tracks the opinion of the general public on pensions and assesses how confident they are in pensions as a way of saving for retirement. It also includes a section on the likelihood of respondents opting out from auto-enrolment.

The NAPF's findings include:

- 54% of all employees are not confident in pensions compared to other ways of saving, whilst 37% said they are confident, resulting in a Confidence Index of -17%. This represents a record low since the Index was first run in 2007. It is also a sharp fall from -6% in September 2011, and from +5% in autumn 2010;

- one third (33%) of those who are eligible for auto-enrolment will quit the new pension. Asked why, 40% said they do not trust the pensions industry. This was up from 27% in October 2011 and is now the main threat to auto enrolment. 35% said they cannot afford it, and 23% said they did not trust the Government on pensions.

NAPF Press Release

New guides published

This year's NAPF investment conference saw launch of two new guides:

- Exchange Traded Funds made simple:

This guide illustrates how, by allowing investors to trade whole markets as a single company share, ETFs can offer pension funds the ease, flexibility and cost efficiency to invest in financial markets. It sets out:

  - what ETFs are and how they work;
  - the different structures and features that pension fund investors may encounter;
  - the different roles for ETFs in a pension fund investment portfolio; and
  - the factors to be considered when evaluating an ETF and an ETF provider to help ensure that any ETF investment is appropriate to meet the investment aims of the pension scheme.

- Property Investments made simple:

This guide has been designed to help pension funds get a better understanding of property at a time when they are increasingly seeking investments that offer long-term stability. The guide looks at the key elements and considerations of a property investment and how this asset class fits into a pension fund portfolio. It discusses both traditional and the more recent routes of property investment.

NATIONAL EMPLOYMENT SAVINGS TRUST

NEST Forum 2012

NEST held its 2012 Forum - "Understanding a New Generation of Savers" - on 7 March 2012. The Forum examined ways in which the pensions industry can encourage participation and persistency among the new generation of pension savers created by automatic enrolment in the UK from 2012. In particular, it considered:

- automatic enrolment in a climate of austerity;
- how members may be encouraged to stick to saving once they have started;
- the key points within the pension saving lifecycle where persistency is most vulnerable, and how good pension scheme design can counter this;
- how far the US experience in stimulating long-term saving among working age people, especially those on lower incomes, can be read across to a UK context; and
- to what extent the KiwiSaver experience can tell us about consumer behaviour in the UK under automatic enrolment.

Summaries of the papers presented to the forum can be accessed via NEST's Press Release.

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OFFICE OF TAX SIMPLIFICATION (OTS)

Review of pensioners' taxation: Interim report

On 6 March 2012, the OTS has published its interim report as part of its current review of pensioners' taxation. (The OTS has broadly identified the 'pensioner population' as those aged 60 or over for the purposes of the review.)

The interim report identifies and examines the areas of the tax system which cause the greatest complexity for pensioners, and looking at how the problems vary across the pensioner population. While the interim report offers few immediate recommendations for change, it highlights problem areas and possible directions of travel for the future of the review.

The areas to be reviewed further include the age related allowances, the married couples allowance and the taxation of savings, as well as the convoluted PAYE forms and the administrative processes pensioners face.

The OTS will now be looking to explore both technical and administrative simplifications in these areas before making final recommendations to the Chancellor later in 2012.

OTS Press Release

PENSION PROTECTION FUND

PPF levy deadlines approaching!

There are now 18 days to go until the 2012/13 pension protection levy deadline of 5pm on 30 March 2012.

All contingent assets should be certified by this time, and all scheme return information, that will be used to calculate levies, should be certified on Exchange by this time.

More information can be found on the PPF's website. In addition, the PPF has recently added relevant FAQs to its website based on the queries it has received. The FAQs include information on allocation of assets when calculating investment risk, measurement of average failure scores and recertification of contingent assets.

Contingent asset surgery

The PPF has published details of a recent surgery held by representatives of the Legal and Policy teams from the PPF with members of the Association of Pension Lawyers (APL).

The note contains:

- commentary on common themes in the questions asked;
- questions that were notified by APL members in advance;
- questions that were asked from the floor; and
- questions previously asked by stakeholders and contained within the slides at the seminar.

It is intended that relevant parts of this note will be incorporated into the Contingent Asset Guidance when it is issued for the 2013/14 levy year.

PUBLIC SECTOR PENSIONS

Discussions concluded on public service pension reform

HM Treasury reports that discussions have now concluded with health, education and civil service unions on details for new public service pension schemes to be introduced from 2015.

Heads of Agreement on the main elements of scheme design were reached on 20 December 2011 for the NHS Pension Scheme, the Principal Civil Service Pension Scheme and the Teachers' Pension Scheme. Further work on the remaining details subsequently took place between departments and trades unions. These discussions have now concluded for these schemes and Proposed Final Agreements, based on the Heads of Agreement reached on 20 December, were published on 9 March 2012 by departments.

The Proposed Final Agreements remain in line with the approach set out in Lord Hutton's report and will mean that public service pensions remain among the very best available. The agreements also continue to deliver the Government's key objectives on linking Normal Pensions Age to State Pension Age and moving to schemes based on career average salary, while protecting those closest to retirement. While most workers will be asked to retire later and pay more towards their pension, at the same time, most low and middle earners working a full career will receive pension benefits at least as good, if not better, than they get now. Those who are less than ten years from their Normal Pension Age on 1 April 2012 will continue to be protected from these changes.

Details agreed include:

- a process with trades unions for assessing the equalities impacts of these reforms;
- clarification on death in service and other ancillary benefits, such as the treatment of members who leave active service but rejoin within five years; and
- options for members to contribute more in order to top up their pension if they choose to retire early.

The enhanced cost ceilings set on 2 November 2011 remain unchanged, with no additional money made available.

The majority of unions have agreed to take these Proposed Final Agreements to their Executives as the outcome of negotiations. In parallel with this process, the Government has begun working on the implementation of these scheme designs and will introduce legislation as soon as parliamentary time allows, so that new schemes can be in place by 2015.

However, this may not yet be the end of the story as a number of unions have called on members to reject the proposals, following the Government's latest announcements.

HM Treasury Press Release

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Government Actuary's Department (GAD) statement on public service pension reforms

Following the Government's announcement, GAD published an update to its December 2011 note "Public service pension schemes reform and Fair Deal".

GAD explains that contractors may incorporate the revised rates, or make allowance for the revised rates, in their proposals for providing a broadly comparable pension scheme under the Fair Deal policy. As GAD explains, this also includes situations where a compulsory transfer of employment is due to take place between the dates of these respective announcements and 31 March 2012 (although such changes in employee contributions can only apply to transferring employees with effect from 1 April 2012).

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