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

DEPARTMENT FOR WORK AND PENSIONS

DWP publishes revised auto-enrolment booklet

The DWP has published a revised edition of its booklet: "Automatic enrolment into a workplace pension". The booklet is designed to give a general overview of workplace pensions and is aimed at supporting stakeholders and the members they represent.

The booklet and other auto-enrolment materials can be found in the DWP's workplace pensions toolkit, which also includes short information guides, fact sheets and example case studies showing how individuals may be affected by the forthcoming changes to workplace pension schemes.

EQUITABLE LIFE

January 2012 Progress Report

In May 2010, the Government pledged to implement recommendations made by the Parliamentary and Health Service Ombudsman, to make fair and transparent payments to Equitable Life policyholders, for their relative loss as a consequence of regulatory failure.

The Equitable Life Payment Scheme (ELPS) was established and it was announced in October 2010 (as part of the Spending Review) that £1.5 billion would be made available to ELPS for distribution to around one million eligible policyholders.

A number of public commitments were made when the scheme was launched in June 2011. A report has now been published which sets out details of the progress made to date against those commitments.

EUROPEAN FEDERATION FOR RETIREMENT PROVISION (EFRP)

EFRP position on EU proposals for a Directive on Financial Transaction Tax

The European Parliament and the Council of the European Union are currently in the process of discussing a proposal from the European Commission (which was presented in September 2011) on a common system of financial transaction tax (FTT). The proposal sets a common tax on all transactions carried out by financial institutions based in the EU.

On 7 February 2012, the EFRP has published a Position Paper on the proposal, in which it sets out its "deep concern about the ratio and concrete structure of this proposal, which would severely impact pension beneficiaries". The paper notes that if approved in its current form, the proposal would have a significant effect on occupational pension schemes, resulting in increased costs and reduced benefits, with pension schemes being "taxed to recover costs of a financial crisis, which they are not responsible for". Consequently, the EFRP invites the EU Parliament and Council to dismiss the proposal.

The next stage is for the proposal to be discussed and agreed unanimously by Member States in the EU's Council of Ministers, following the opinion of the European Parliament. If adopted, it is intended that the FTT should come into effect from 1 January 2014.

To date, the Czech Republic, Denmark, Ireland, Malta, Sweden and the UK have expressed their opposition to the Proposal.

EFRP press release

HM TREASURY

Foreign Account Tax Compliance Act (FATCA)

On 8 February 2012, the UK Government, together with the Governments of France, Germany, Italy, Spain and the United States, issued a joint statement setting out an agreed approach to the US "FATCA" legislation, which aims to combat cross-border tax evasion.

FATCA is part of the US Hiring Incentives to Restore Employment Act of 2010. It aims to combat tax evasion by US tax residents using foreign accounts. It includes certain provisions on withholding taxes and on the reporting of information by foreign financial institutions for US tax compliance purposes. These give rise to certain legal difficulties and administrative burdens for financial institutions

The joint statement focuses on an inter-governmental approach to information exchange, which addresses certain legal difficulties and compliance burdens that would otherwise arise for financial institutions affected by FATCA.

Savings accounts (including both retirement and pension accounts and non-retirement savings accounts) that meet certain requirements with respect to tax treatment and the type and amount of contributions are excluded from the definition of a financial account. However, the full impact for UK pension schemes is still unclear and we continue to monitor developments.

HM Treasury Press Release

NATIONAL ASSOCIATION OF PENSION FUNDS

Report: "Closing the gap: the choices and factors that can affect private pension income in retirement"

The PPI has published a report (commissioned by the NAPF), which looks at how decisions made by savers could affect the pension of an average earner due to retire in 2055 at the age of 68. Factors considered in the research included paying more into a pension, starting saving earlier, and working longer. Charges and annuities were also explored and, as the report notes, are important as they do not involve the saver having to pay any more into their pension.

Findings from the research indicate that:

- saving a total of 12% of band earnings[1] into a private pension (instead of the 8% minimum required for auto-enrolment and above the current average for a DC occupational pension scheme of 6% employer contributions and 3% employee contributions) can increase private pension income by 50%;
- retiring two years after state pension age and continuing to save in that time has a positive two-fold effect through saving more and deferring annuity purchase and can enhance private pension income by 20%;
- opting-out between the ages of 30 and 40 and starting to save ten years later can reduce private pension income by 32%; and
- retiring two years before state pension age and starting to draw down pension can reduce private income by 18%.

This report follows on from the work of the Workplace Retirement Income Commission (WRIC). In August 2011, WRIC made a series of recommendations which were designed to make it easier for employees to achieve improved outcomes from their workplace pension scheme.

NAPF Press Release

Rising to the red tape challenge

The NAPF has called on the pensions industry to help it identify and overhaul unnecessary legislation for the Government's 'Red Tape Challenge'.

The NAPF would like to hear from members about aspects of pensions legislation and regulation which may not be relevant or fit for purpose. It is intended that the best examples will then be put to the Government, which has pledged to launch a pensions 'spotlight' later in the spring and review existing regulation to weed out any rules that are not needed.

An NAPF survey in 2011 revealed several areas where the pensions industry wanted simpler regulation, including: member communications, deficit recovery plans, GMPs and the indexation of pensions for future accrual.

The main focus of the Government's Red Tape Challenge is domestic legislation and regulation. But it is also interested in hearing about International and European legislation that is transposed into UK law and regulation, tax administration, and burdens on workplace pensions created by other guidance and codes of practice.

The deadline for responses is 16 March 2012.

NAPF Press Release

[1] "Band earnings" means the earnings range over which employee and employer contributions are made. For auto-enrolment, band earnings will be earnings between £5,715 and £38,185 in 2010/11 earnings terms

THE PENSIONS REGULATOR

Updated auto-enrolment guidance for large employers

On 10 February 2012, TPR published an updated version of its step-by-step guidance on automatic enrolment duties for large employers and their advisers.

The guidance, which forms part of TPR's suite of educational materials for all UK employers, has been updated to reflect changes brought about by the Pensions Act 2011 and recent regulations put before Parliament.

The detailed guidance now includes information on:

- postponement and the circumstances in which employers can use the provision to postpone assessment and automatic enrolment of workers;
- the process for certifying DC schemes as qualifying schemes;
- whether a person is 'ordinarily working' in the UK - including further examples for employers;
- contractual enrolment, including clarification around the use of salary sacrifice and flexible benefit arrangements; and
- updated staging information in light of the Government's announcement on 25 January 2012.

TPR's website has also been updated so that employers can find out their indicative staging date following the Government's announcement on the revised staging profile for employers with fewer than 250 staff.

TPR Press Release

Individuals prohibited from acting as trustees

TPR's Determinations Panel (DP) has prohibited three people from acting as trustees following an investigation by The Pensions Regulator into the Hugh Mackay Retirement Benefits Scheme (the Scheme).

The three former trustees (who resigned from the Scheme in October 2011), conceded that they had breached investment regulations and legislation requiring them to demonstrate sufficient trustee knowledge and understanding. The DP concluded that the breaches were so "serious and persistent" that they should be prohibited from acting as trustees of trust schemes in general on grounds that they were not 'fit and proper' persons.

As set out in the Determination Notice, TPR's investigation revealed that:

- In breach of investment regulations, the vast majority of the Scheme's assets had been invested directly in property or property-related investments, including commercial property stated to be worth more than £35m in the scheme's accounts. Furthermore, the Scheme's accounts showed it was committed to repay bank loans of more than £21m secured on the property assets financed by such borrowings.

- The Scheme paid Chartpoint Limited (Chartpoint) - also its sponsoring employer - for certain services. More than £1.1m was paid between 2006 and 2009, according to the scheme accounts. All three trustees benefited through salaries and bonuses from the company.

- The trustees' relationship with Chartpoint gave rise to serious conflicts of interest, which the panel found were not properly managed. In two speculative property deals examined by TPR, the Scheme bought land for £1.55m in 2006 and a commercial building for £8.6m in 2007. In both examples, one of the trustees had a substantial interest in the vendor companies and was also a trustee of the Scheme purchasing the properties.

TPR has separately published a Report under Section 89 of the Pensions Act 2004 summarising the key legislative and fiduciary issues in this case. TPR notes that, although the circumstances were unusual and extreme, the case serves as an example of the precarious position a scheme can get into if relevant legislation and guidance is not followed. It also highlights the fact that trustees should have sufficient knowledge and understanding to evaluate properly professional advice obtained, before decisions are implemented.

TPR Press Release