

## Pensions law – the week in review

13 April 2009

### AT A GLANCE

#### LEGISLATION

- The Occupational Pension Schemes (Contracting-out) (Amendment) Regulations 2009

#### DWP

- Response to the consultation on the Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendment) Regulations 2009
- Updated guidance on employer consultation

#### GAD

- Changes to revaluation in deferment and validity of certificates of broad comparability

#### HMRC

- Tax repayment requests for a registered pension scheme

#### PPF

- Framework document between the Board of the Pension Protection Fund and the Department for Work and Pensions

**Pensions law – the week in review**  
**13 April 2009**

## **1 LEGISLATION**

### **1.1 The Occupational Pension Schemes (Contracting-out) (Amendment) Regulations 2009**

Under new provisions introduced by the Pensions Act 2007, it is possible to convert guaranteed minimum pensions (GMPs) into ordinary scheme benefits<sup>1</sup>.

Five conditions must be met before conversion can take place. These regulations relate to two of these:

- actuarial equivalence – they set out how actuarial equivalence is to be determined for the GMP element and the new scheme benefits; and
- payment of a survivor's benefit – they set out the circumstances in which a survivor's benefit must be payable from the converted GMP benefits.

To access the regulations, please follow the link below:

[http://www.opsi.gov.uk/si/si2009/uksi\\_20090846\\_en\\_1](http://www.opsi.gov.uk/si/si2009/uksi_20090846_en_1)

## **2 DEPARTMENT FOR WORK AND PENSIONS (DWP)**

### **2.1 Response to the consultation on the Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendment) Regulations 2009**

On 9 April 2009, the DWP published the Government's response to the consultation on the Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendment) Regulations 2009.

---

<sup>1</sup> For further details, please see our Alert, "GMPs: Trying for a conversion" dated 5 March 2009

## **Pensions law – the week in review 13 April 2009**

The regulations, which seek to make a number of (unconnected) amendments to regulations governing occupational, personal and stakeholder pensions, came into effect on 6 April 2009<sup>2</sup>.

To access a copy of the Government's response, please follow the link below:

<http://www.dwp.gov.uk/consultations/2008/pensions-misc-regs-response.pdf>

### **2.2 Updated guidance on employer consultation**

The DWP has published an updated version of its guidance on:

- the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006; and
- the Occupational Pension Schemes (Consultation by Employers) (Modification for Multi-employer Schemes) Regulations 2006.

The key changes from the March 2006 version of the guidance are as follows:

- the DWP confirms that, in its opinion, providing the employer's contribution rate does not change nor the members' contribution rate increase, changing the group personal pension provider is not a listed change and consultation by the employer is not required; and
- the "Sanctions" section of the guidance has been updated to reflect the new power for the Pensions Regulator to impose a fine on employers who (without reasonable excuse) do not comply with the statutory consultation requirements<sup>3</sup>.

---

<sup>2</sup> For further details, please see 7Days dated 16 March 2009 and our Alert, "When draft regulations are born!" dated 10 December 2008

<sup>3</sup> For further details, please see our Alert, "When draft regulations are born!" dated 10 December 2008

## **Pensions law – the week in review 13 April 2009**

To access the guidance, please follow the link below:

[Guidance](#)

### **3 GOVERNMENT ACTUARY'S DEPARTMENT (GAD)**

#### **3.1 Changes to revaluation in deferment and validity of certificates of broad comparability**

Following changes introduced by the Pensions Act 2008, the maximum rate of revaluation of deferred benefits accruing after 6 April 2009 is 2.5%<sup>4</sup>.

On 6 April 2009, GAD issued a press release, reminding contractors<sup>5</sup> and contracting authorities that where changes are made to the contractor's pension scheme before a certificate of broad comparability expires, a new certificate may be required for employees that are still public servants at the time of the change.

GAD has advised that, if a contractor cuts the cap on revaluation of deferred benefits below the level described in their current passport certificate, then that passport certificate would be withdrawn pending a reassessment of the broad comparability of the benefit package as a whole. In practice, GAD expects that it will be difficult for contractors to come up with a sufficiently valuable benefit structure in other areas to compensate for a reduction of the cap on revaluation of deferred benefits to the new minimum level.

To access the press release, please follow the link below:

[GAD press release](#)

---

<sup>4</sup> For further information, please see our Alert, "Pensions Act 2008 – the road to 2012" dated 5 December 2008

<sup>5</sup> organisations which tender to provide services under a Public Private Partnership or Private Finance Initiative

## **Pensions law – the week in review 13 April 2009**

### **4 HM REVENUE & CUSTOMS (HMRC)**

#### **4.1 Tax repayment requests for a registered pension scheme**

When a registered pension scheme has paid UK income tax at source on the income from its investments or deposits held for the purposes of the scheme, a repayment request can be submitted to HMRC Pension Scheme Services.

HMRC has published guidance for registered pension schemes on claims made during the course of a tax year for the repayment of tax paid on investment income. The guidance details changes to the process which will be effective from 1 August 2009.

In addition, HMRC have published some new guidance on the end of year self assessment return issued to trust based registered pension schemes.

HMRC intend to incorporate both sets of guidance into the Registered Pension Schemes Manual later this year.

To view the guidance, please follow the link below:

[http://www.hmrc.gov.uk/pensionschemes/20090406\\_guidance.pdf](http://www.hmrc.gov.uk/pensionschemes/20090406_guidance.pdf)

### **5 PENSION PROTECTION FUND (PPF)**

#### **5.1 Framework document between the Board of the PPF (the Board) and the Department for Work and Pensions (DWP)**

The PPF has published a framework document setting out a management statement and a financial memorandum which have been drawn up by the DWP and agreed in consultation with the PPF.

**Pensions law – the week in review**  
**13 April 2009**

The two documents set out the broad framework within which the Board of the PPF will operate, in particular:

- the Board's overall aims, objectives and targets;
- the rules and guidelines relevant to the exercise of the Board's functions, duties and powers;
- the relationship between the DWP and the Board;
- the conditions under which any public funds are paid to the Board; and
- how the Board is to be held to account for its performance.

To view the document, please follow the link below:

[http://www.pensionprotectionfund.org.uk/framework\\_document\\_ppf\\_dwp\\_apr09.pdf](http://www.pensionprotectionfund.org.uk/framework_document_ppf_dwp_apr09.pdf)



**Solicitors specialising in pensions law**

Sacker & Partners LLP  
29 Ludgate Hill  
London EC4M 7NX  
Tel 020 7329 6699  
Fax 020 7248 0552

enquiries@sackers.com  
www.sackers.com

Nothing stated in this document should be treated as an authoritative statement of the law on any particular aspect or in any specific case. Action should not be taken on the basis of this document alone. For specific advice on any particular aspect you should consult the usual Solicitor with whom you deal. © Sacker & Partners LLP April 2009