17 December 2012

Happy Christmas and best wishes for the New Year – 7 days will return on 7 January 2013

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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)
CJEU: Court of Justice of the European Union
DB: Defined benefit
DC: Defined contribution
DWP: Department for Work and Pensions
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

Finance Bill 2013

The draft Finance Bill was published for consultation on 11 December 2012. The Bill includes:

- the measures announced in the Autumn Statement to reduce the annual allowance and the lifetime allowance from 6 April 2014;[1]
- provisions to align the tax rules for bridging pensions with forthcoming changes to State Pension Age; and
- a number of other measures originally announced in the 2012 Budget.[2]

For details, please see our Alert: "Finance Bill 2013" dated 13 December 2012.

DEPARTMENT FOR CULTURE, MEDIA AND SPORT

Marriage for everyone

On 15 March 2012, the Government Equalities Office issued a consultation on the Government's proposals to enable same-sex couples to have a civil marriage. A response has now been published.

The Government's intention, as regards State and occupational pensions, is to treat same-sex married couples in the same way as civil partners.

Press release

DEPARTMENT FOR WORK AND PENSIONS

Response to consultation on auto-enrolment earnings thresholds for 2013/14

Automatic enrolment went live for the largest employers in October 2012 and will be rolled out to all employers over the next five and a half years.

In September 2012, the DWP published a consultation on the auto-enrolment earnings thresholds for 2013/14.[3]

[1] See our Alert: "Autumn Statement 2012" dated 6 December 2012

[2] See our Alert: Budget 2012: the pensions story" dated 22 March 2012

[3] See 7days dated 10 September 2012

The automatic enrolment earnings trigger determines who saves. The qualifying earnings band sets minimum contribution levels for money purchase schemes. These thresholds must be reviewed each year, and revised if appropriate, taking into account the prevailing rates of National Insurance contributions (NICs), PAYE personal tax allowance, basic state pension, inflation and any other factors that the Secretary of State considers appropriate.

On 13 December 2012, the DWP published a response to the consultation. It proposes to lay a draft Revision Order before Parliament in the New Year which specifies the following rates:

- £9,440 for the automatic enrolment earnings trigger;
- £5,668 for the lower limit of the qualifying earnings band; and
- £41,450 for the upper limit of the qualifying earnings band.

The Order is subject to the affirmative resolution procedure and will require the approval of both Houses of Parliament. It is intended to come into force on 6 April 2013.

HM REVENUE & CUSTOMS

Impact of CJEU ruling on drawdown pensions

The CJEU ruled on 1 March 2011 (in the *Test Achats* case) that, with effect from 21 December 2012, insurers should not be permitted to use gender for pricing premiums and benefits for men and women for insurance transactions (including annuity purchase) covered by the Genders Directive (Directive 2004/113/EC which implements the principle of equal treatment between men and women in the access to and supply of goods and services).[4]

The amount of drawdown pension that may be taken as income annually is the "annual amount" of a "relevant annuity" which the drawdown pensioner could have purchased. Annuity rates are currently higher for men than for women because on average men have lower life expectancy at retirement.

The Registered Pension Schemes (Relevant Annuities) (Amendment) Regulations 2012[5] provide for male and female drawdown pensioners to be treated the same from 21 December 2012 by providing that the maximum drawdown pension for females is calculated using the existing male rates. This increases the maximum drawdown pension female pensioners can take without affecting the maximum drawdown pension males can take.

On 11 December 2012, HMRC published a Tax Information and Impact Note for the Regulations.

NATIONAL ASSOCIATION OF PENSION FUNDS

Revised NAPF corporate governance policy and voting guidelines 2012

The NAPF has published a revised version of its corporate governance policy and voting guidelines. The document is accompanied by specific versions for investment companies and smaller companies.

[4] See our Alert: "Is it the end of the road for sex-based actuarial factors?" dated 2 March 2011

[5] See 7days dated 3 December 2012

PENSION PROTECTION FUND

PPF Publishes Levy Determination and Confirms 2013/14 Estimate

Following a consultation launched in September, the PPF today (17 December) confirmed that the 2013/14 pension protection levy estimate will be £630 million, as originally proposed.

It also published at the same time the 2013/14 Levy Determination which sets out the Levy Rules. The PPF also confirmed that it will reduce the levy scaling factor from 0.89 to 0.73, and the scheme based levy multiplier from 0.000085 to 0.000056, to raise this amount. This means that fewer schemes will have their levy capped.

The other rules used to set the levy will remain the same, except for a relaxation in the requirements for a guarantee from a bank, or from a custodian, so that in future an A- credit rating will be sufficient.

Alongside the Levy Rules, the PPF has updated guidance for putting in place contingent assets following informal consultation with stakeholders, to give a better steer to schemes on what to consider when planning to use guarantees as contingent assets.

The deadlines for the 2013/14 levy year are:

- Information from scheme returns submitted by 5pm on 28 March 2013 will be used to calculate individual levies. The Pensions Regulator's Exchange system will continue to be the sole point of data submission for the purposes of the PPF levy – and submissions can now be made.

- Insolvency risk will be measured using the average annual Failure Score of each sponsoring employer measured on the last working day of each month, from 30 April 2012 to 28 March 2013.

- The deadline for certification and/or re-certification of contingent assets will be 5pm on 28 March 2013.

- Deficit reduction contributions that have been made up to and including 31 March 2013 must be certified by 5pm on 30 April 2013.

- Full block transfers that have taken place up to and including 31 March 2013 must be certified by 5pm on 28 June 2013.

- The PPF will use market data over five years to smooth funding levels. For levy year 2013/14, we will use market data for each week day in the five-year period up to 31 March 2013.

- The date to which the PPF will transform section 179 valuations is 31 March 2013. These transformed values will be subject to smoothing and stressing.

THE PENSIONS REGULATOR

Automatic enrolment: five step action checklist for trustees

On 13 December 2012, TPR published an updated five step action checklist for trustees which aims to help them prepare for automatic enrolment.

The checklist highlights the following key activities that may involve trustees:

- finding out if the scheme can be used;
- reviewing the scheme against the six principles and the quality features of a good DC scheme;
- reviewing the default investment strategy;
- examining the scheme's administration processes; and
- member communication.

TPR explains that while the duty is on the employer to provide the right information to the right individual at the right time, trustees may be asked to fulfil this duty on behalf of the employer.

New Determinations Panel chair

On 14 December 2012, TPR announced that, with effect from April 2013, the new chair of its Determinations Panel will be Andrew Long.

Mr Long has been a member of the Panel since 2011. He is also currently acting chair of the Regulatory Decisions Committee at the Financial Services Authority and is a judge of the First-tier Tax Tribunal.