Sackers extra

20 September 2010

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SO7

Abbreviations commonly used in 7 Days

Alert/News: Sackers Extra publications (available from the client area of our website or from your usual contact)
CPI: Consumer Prices Index
DB: Defined benefit
DC: Defined contribution
DWP: Department for Work and Pensions
FAS: Financial Assistance Scheme
HMRC: HM Revenue & Customs
PPF: Pension Protection Fund
RPI: Retail Prices Index
TPR: The Pensions Regulator

LEGISLATION

Finance (No.2) Bill 2010

The First Reading of 2010's third Finance Bill (the second under the Coalition Government) was presented to Parliament and received its first reading on 15 September 2010.

Although the Bill itself has not yet been published (it is scheduled for publication on 30 September 2010), following the publication of draft legislation in July, it will cover a number of technical measures inherited from the previous Government which were not included in the Finance (No.2) Act 2010 which received Royal Assent on 27 July.

The progress of the Bill can be tracked on the Parliament website.

Equality Act 2010

More orders and regulations have been published under the Equality Act 2010, which is due to come into force from 1 October 2010. These include The Equality Act (Age Exceptions for Pension Schemes) (Amendment) Order 2010.

We reported in 7 Days on 30 August 2010 on the publication of the Equality Act (Age Exceptions for Pension Schemes) Order 2010. That Order is designed to replicate the current pensions exceptions from the Employment Equality (Age) Regulations 2006 (the Age Regulations). The Age Regulations are due to be repealed from 1 October 2010, when the majority of the Equality Act comes into force and will be replaced at that time by the Age Exceptions Order. The amending Order makes changes to the Age Exceptions Order 2010 to correct two errors.

The amendments:

- provide that certain practices relating to rights accrued before 1 December 2006 (when the Age Regulations came into force) remain outside the scope of the non-discrimination rule; and

- make a technical amendment to remove the length of service exemptions from Schedule 1 where they appeared in error.

This Order will come into force on 1 October 2010. Further information can be found in the explanatory memorandum which accompanies the Order.

Abolition of DC contracting-out

As we reported in 7 Days on 2 August 2010, the Government is currently consulting on draft consequential legislation relating to the abolition of DC contracting-out. The consultation closes on 19 October 2010.

The consultation includes four sets of draft regulations which are designed to amend or revoke existing legislation to enable contracting-out to be ended for all DC schemes.

As they stand, the draft regulations look set to create significant restrictions on transfers. Transfers are currently permitted from a contracted-out salary related scheme to another salary-related contracted-out scheme; to a contracted-out money purchase scheme; or to an appropriate personal pension. However, under the draft regulations only transfers between salary-related schemes will survive (on the basis that DC contracting-out will no longer exist).

The consultation closes on 19 October 2010. This is one of a number of issues which Sackers will be considering in our response to the consultation.

For more information, please see our Alerts:

- "Abolition of DC contracting out: consultation on implementing legislation" dated 30 July 2010; and
- "We're listening... The Government consults on pensions issues" dated 14 September 2010.

LAW COMMISSION

Trustee Exemption Clauses

In 2006, the Law Commission recommended that the Government should promote the adoption by professional and regulatory bodies in the trust industry in England and Wales of a model rule of practice relating to the inclusion in trust documents of clauses limiting the liability of trustees for the consequences of their actions.

The recommended model rule provides that a paid trustee or trust draftsman proposing to include such a clause should take reasonable steps to ensure that the person creating the trust is aware of the meaning and effect of the clause before the trust is created.

On 14 September 2010, the Parliamentary Under-Secretary of State for Justice (Mr Jonathan Djanogly) announced that the Government has accepted these recommendations.

NATIONAL ASSOCIATION OF PENSION FUNDS (NAPF)

Securities lending guides for trustees

On 13 September 2010, a group of the UK's leading financial trade associations published a range of educational materials which are designed to help pension fund trustees improve their understanding of the securities lending market.

The documents include an introductory guide, a checklist for investors contemplating starting securities lending programmes, and a disclosure code of guidance for securities lending agents.

The materials were jointly developed at the instigation of the Bank of England's Securities Lending and Repo Committee and are endorsed by the Association of British Insurers, the British Bankers Association, the International Capital Market Association's European Repo Council, the Investment Management Association, the International Securities Lending Association, the Local Authority Pension Fund Forum and the NAPF, as well as securities services consultant Thomas Murray.

The group worked closely with the Financial Services Authority, Bank of England, HM Treasury and TPR.

NAPF Press Release

Bank of England Press Release

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

International Accounting Standard No. 19 Exposure Draft

International Accounting Standard (IAS) 19 prescribes the accounting and disclosure requirements in relation to employee benefits (including pensions) for EU listed companies.

Broadly, under IAS 19, the cost of providing employee benefits should be recognised in the accounting period in which the benefit is earned by the employee, rather than when it is paid or payable. There are different requirements for DC and DB pension schemes.

In April 2010, the International Accounting Standards Board (IASB) published an exposure draft with proposed changes to International Accounting Standard No. 19 (IAS 19). The consultation closed on 6 September 2010. If enacted, the changes proposed by the IASB are expected to have a significant impact on company accounting worldwide.

This OECD Paper summarises the changes presented in the April 2010 exposure draft and explores their implications, focusing on some of the key issues, such as the deferred recognition of gains and losses and how the changes in a pension scheme's net asset or liability should be recognised in the sponsoring employer's financial statements.

PUBLIC SECTOR PENSIONS

Government Actuary's Department passports not affected by RPI to CPI switch

In June's Emergency Budget, the Coalition Government announced that it intended to use the CPI rather than RPI as the measure for applying increases (both in deferment and to pensions in payment) to public sector pensions from April 2011.

In the light of this, in July 2010, GAD announced a moratorium on "Broad Comparability" testing and said that it would not issue new bulk transfer bases for schemes for which GAD is the scheme actuary. However, in a recent update, GAD has announced that, having considered the impact of CPI uprating in respect of broad comparability assessments in connection with public sector staff transfers under the Government's Fair Deal policy, it has released an updated note on the actuarial assumptions for broad comparability assessments.

In addition to extending the financial assumptions to cover CPI uprating, GAD has also introduced updated demographic assumptions for the assessment of broad comparability.

With a view to minimising disruption to contractors, and to procurement exercises which are in progress, GAD has said that Certificates of Broad Comparability which are in force on an RPI basis are not being withdrawn and can continue to be used.

However, the use of such certificates requires contractors to provide RPI linked benefits. If a contractor wishes to provide CPI linked benefits, then the associated proposals will need to be tested against CPI linked benefits in the relevant public sector pension scheme. GAD explains that such testing would be carried out using the updated assumptions, including the updated demographic assumptions. Contractors with such proposals should notify their usual GAD contact of their requirements.

For more information on the switch to CPI, please see our Alert: “Pension Increases – the change from RPI to CPI” dated 13 July 2010.

THE PENSIONS REGULATOR

TPR issues Financial Support Direction determination on Lehman Brothers Pension Scheme

TPR’s Determinations Panel has issued a determination that six companies within the Lehman Brothers Group, including the group’s main operating companies in the UK as well as the US parent Lehman Brothers Holdings Inc, should provide financial support to the Lehman Brothers Pension Scheme.

TPR has said that it will publish its detailed reasons “shortly”.

TPR Press Release