

22 July 2013

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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)

**DB:** Defined benefit

**DC:** Defined contribution

**DWP:** Department for Work and Pensions

**HMRC:** HM Revenue & Customs

**NAPF:** National Association of Pension Funds

**NEST:** National Employment Savings Trust

**PPF:** Pension Protection Fund

**SPA:** State Pension Age

**TPR:** The Pensions Regulator

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## LEGISLATION

### Finance Act 2013

The Finance Act 2013 received royal assent on 17 July 2013 and has now been published. It includes:

- measures to reduce the annual allowance to £40,000 and the lifetime allowance to £1.25 million with effect from 6 April 2014;
- a new transitional protection against the lifetime allowance charge from 6 April 2014, "fixed protection 2014"; and
- provisions to align the tax rules for bridging pensions with forthcoming changes in SPA.

### Marriage (Same Sex Couples) Act 2013

The Marriage (Same Sex Couples) Act 2013 received Royal Assent on 17 July 2013.

The Act replicates the pension rights of civil partners for same sex spouses. This means that pension schemes do not need to provide the same benefits to a same sex spouse as for an opposite sex spouse.

Following criticism of the fact that the Act provides for these limitations on pension rights for same sex spouses, the Act now includes a requirement for the Government to arrange a review of:

- relevant differences in survivor benefits; and
- the costs, and other effects, of securing that relevant differences in survivor benefits (between opposite sex and same sex married couples) are eliminated by the equalisation of survivor benefits.

A report on the outcome of this review must be produced and published before 1 July 2014. If, following the outcome of the review, the Secretary of State considers requirements should be changed such amendments may be made by order.

For background and further details on the current position in relation to survivors' benefits for same sex couples, please see our [Alert](#): "Survivors' Benefits and Same Sex Partners" dated 1 March 2013.

### **The Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2013**

These [regulations](#) (which come into force on 1 October 2013):

- clarify one of the eligibility conditions which must be satisfied to enable the postponement of a payment of compensation from the PPF; and
- introduce a power for trustees to modify, by resolution, the terms of any bridging pensions to take account of the changes to SPA.

We will be publishing an alert on the new modification power shortly.

#### [Explanatory Memorandum](#)

### **The Registered Pension Schemes (Provision of Information) (Amendment) Regulations 2013**

These [Regulations](#) amend the Registered Pension Schemes (Provision of Information) Regulations 2006 which concern the provision of information by persons such as members and scheme administrators of registered pension schemes.

The amendments are consequential to the amendments to the Finance Act 2004 which reduce the pensions lifetime allowance from £1,500,000 to £1,250,000, and the annual allowance from £50,000 to £40,000, with effect from tax year 2014-15.

## **FINANCIAL REPORTING COUNCIL (FRC)**

### **Annual report for 2012/13**

The FRC is responsible for promoting high quality corporate governance and reporting to foster investment. It sets the UK Corporate Governance and Stewardship Codes as well as UK standards for accounting, auditing and actuarial work.

On 18 July 2013, the FRC published its [annual report](#) for 2012/13.

Looking ahead, key priorities for the FRC include:

- ensuring companies assess and report better on their strategies, business models and risks, including by finalising and implementing the recommendations of the Sharman panel's going concern guidance, Code requirements on risk management and guidance for directors on narrative reporting;
- continuing to lead debates at European level on key issues including long termism, audit tendering, non-audit services, International Financial Reporting Standards endorsement and the company law action plan;
- through the Financial Reporting Lab provide practical help to make annual reports more relevant, concise and free of clutter; and
- following the recommendations of the review of actuarial regulation, form a stronger partnership with other regulators to address the risks arising from actuarial work.

## HM REVENUE & CUSTOMS

### Annual Allowance Charge Order – revised draft to be available soon

HMRC is currently working to address a number of unintended outcomes from the changes to the annual allowance charge tax rules introduced in the Finance Act 2011. It intends to issue a revised draft Annual Allowance Charge Order for comment as soon as possible.

HMRC understands that current uncertainty in the sector about the tax treatment of 'underfunded' bulk transfers for annual allowance purposes is causing difficulty, particularly for those registered pension schemes seeking to merge where member benefits will be unchanged after the transfer. It has therefore issued a note to stakeholders (including the Association of Pension Lawyers) to confirm that it is the Government's intention that pension input amounts should not arise in situations where all of the following criteria are met:

- there is a "bulk" or "block" transfer of a group of members from one registered pension scheme to another as a result of an employer rearranging its pension schemes or as part of a business transaction;
- the member's retirement benefit in the receiving scheme represented by the transfer is the same, in principle, as if it had remained in the original scheme and the rearrangement of pension schemes or business transaction had not taken place, i.e. a transfer on a mirror image basis; and
- the pension input amount would at present arise simply because the transfer is "underfunded" (i.e. the sums or assets transferred to the receiving scheme are not sufficient to support the level of benefits promised by the receiving scheme).

The draft order to be published will include revised provisions to address this "underfunded bulk transfer" issue and it is intended that the provisions will have effect for pension input calculations for 2011/12 and subsequent tax years.

The Government will consult further on the revised draft order, including these provisions, and the final draft will require parliamentary scrutiny. It is therefore possible that further changes may be required.

## NATIONAL ASSOCIATION OF PENSIONS FUNDS

### NAPF appoints Chairs of its policy making councils

On 18 July 2013, the NAPF announced the Chairs of its two new policy-making councils.

Robert Brown of Towers Watson has been elected Chair of the DB Council and Lesley Williams of Whitbread will be Chair of the DC Council.

Mr Brown is a senior investment consultant and Chairman of Towers Watson Global Investment Committee, the group responsible for all the firm's capital market assumptions and views. Ms Williams is Group Pensions Director at Whitbread, and is responsible for corporate pensions strategy and for the operation of the pension fund and its investments. Both will take up their new positions at the NAPF Annual General Meeting on 18 October 2013.

The announcements follow the NAPF's decision last year to revamp its two main policy-making councils by replacing the Retirement Policy Council and Investment Policy Council with the DB Council and the DC Council. The NAPF's aim is to better reflect the pensions industry and create a clearer focus on DC pensions in its policy work.

## NATIONAL EMPLOYMENT SAVINGS TRUST

### NEST Corporation and NEST Scheme annual reports and accounts 2012/13

On 16 July 2013, NEST Corporation [published](#) both its and NEST pension scheme's annual report and accounts for 2012/13.

## THE PENSIONS REGULATOR

### Pension liberation fraud – High Court proceedings

On 15 July 2013, TPR [announced](#) that it is to be a party in High Court proceedings to ascertain the legal status of a number of schemes involved in suspected pension liberation fraud.

TPR has been appointed to argue that such schemes are not valid occupational pension schemes with Dalriada Trustees Ltd (which has been appointed as an independent trustee to take on the day to day management of a number of suspected liberation schemes) appointed to argue the contrary.

TPR's executive director for DC, governance and administration Andrew Warwick-Thompson, who oversees TPR's work to disrupt pension liberation fraud, said:

"It is important to understand that the parties involved in the legal proceedings are not in dispute. Both sides of the argument need to be represented to help the court to reach a judgment.

This case is expected to mark an important step in our ongoing work to stamp down on pension liberation fraud. These schemes are being marketed with a veneer of legitimacy but anyone taken in could see their pension savings decimated. We are seeking a court ruling as to the legal status of these schemes, which may assist us in shutting down liberation models that we believe pose the greatest risks to members.

Irrespective of the outcome of this case, we have a suite of powers we can use to disrupt pension liberation fraud. We are determined to prevent the perpetrators of pension liberation fraud from trying to exploit, bend or break the rules.

We continue to work with our partners in Government and the multi-agency Project Bloom task force (set up to combat pension liberation fraud) to help protect vulnerable members and to stop activities that could undermine confidence in the pension system."

We understand the case has been adjourned until the autumn as the judge assigned to hear the case has prior competing commitments.

### Auto – enrolment: A million more workers saving for their retirement

On 19 July 2013, TPR [confirmed](#) that the millionth worker has been automatically enrolled into a workplace pension.

Automatic enrolment was introduced in October last year to ensure workers have access to an occupational pension.

The largest firms in the UK have already started enrolling their workers into pension saving, medium-sized firms are starting now, and the smaller businesses will follow in the years to 2018.

The landmark one million figure is included in July's monthly [automatic enrolment registration report](#) published by TPR.