

Pensions law – the week in review

23 March 2009

AT A GLANCE

LEGISLATION

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- The Social Security (Additional Class 3 National Insurance Contributions) Amendment Regulations 2009

PENSIONS POLICY INSTITUTE

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1 LEGISLATION

1.1 The Pensions Increase (Review) Order 2009

This Order, which will come into force on 6 April 2009, makes provision for the annual increase of official pensions which include, among others, ministerial and parliamentary pensions and the pensions of civil servants and various other public sector workers.

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The Order provides for an increase of 5% from 6 April 2009 for all official pensions, except for those which have been in payment for less than a year (which will receive a pro-rata increase).

To view the Order and explanatory memorandum, please follow the links below:

http://www.opsi.gov.uk/si/si2009/pdf/uksi_20090692_en.pdf

http://www.opsi.gov.uk/si/si2009/em/uksiem_20090692_en.pdf

1.2 The Social Security (Additional Class 3 National Insurance Contributions) Amendment Regulations 2009

In a move aimed at helping women and carers, the Pensions Act 2008 inserted a new section (13A) into the Social Security Contributions and Benefits Act 1992. This generally allows people retiring before April 2015 to buy back up to six additional years' of state pension entitlement provided they already have 20 qualifying years on their National Insurance record.

These regulations make consequential amendments to a number of other regulations in the light of this change and will come into force from 6 April 2009.

http://www.opsi.gov.uk/si/si2009/pdf/uksi_20090659_en.pdf

http://www.opsi.gov.uk/si/si2009/em/uksiem_20090659_en.pdf

For more information, please follow the links below to the HM Revenue & Customs and Pensions Service websites:

<http://www.hmrc.gov.uk/nic/class3.htm#Add>

<http://www.thepensionsservice.gov.uk/state-pension/basic/faqs.asp>

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2 PENSIONS POLICY INSTITUTE (PPI)

2.1 Briefing Note 50: The under-pensioned: disabled people and people from ethnic minorities

The PPI has this month published a briefing note summarising its November 2008 research report: “The under-pensioned: disabled people and people from ethnic minorities”¹, which was commissioned by the Equalities and Humans Rights Commission (EHRC).

The report examines the likely future pension incomes of disabled people and people from ethnic minorities. Overall, it finds that disabled people and people from ethnic minorities have many of the “alarm bell” characteristics that are associated with lower pension incomes. It also notes that, if current trends continue, they are likely to have lower pension incomes in future than “the traditionally-employed median-earning male”.

To view the briefing note and the full report, please click on the links below:

http://www.pensionspolicyinstitute.org.uk/uploadeddocuments/Briefing%20Notes/PPI_Briefing_Note_50.pdf

http://www.pensionspolicyinstitute.org.uk/uploadeddocuments/PPI_EHRC_The_Underpensioned_Nov_2008.pdf

3 PENSION PROTECTION FUND (PPF)

3.1 PPF levy data submission deadline reminder

The PPF has issued a reminder for schemes wishing to reduce their 2009/10 pension protection levy, of the forthcoming deadlines for the electronic submission of data:

31 March 2009 (5pm): Certification/recertification of contingent assets (the documents required in hard copy must still be submitted to the PPF by the same deadline).

¹ By Adam Steventon and Carlos Sanchez

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7 April 2009 (5pm): Certification of deficit reduction contributions (special contributions paid into a scheme since the last actuarial valuation to reduce any deficit) and notification of full block transfers (i.e. to confirm that 100% of assets and liabilities have been transferred out of the scheme).

30 June 2009 (5pm): Final certification of full block transfers.

The PPF has also flagged the following deadlines which apply in respect of data to be used in calculating the 2010/11 levy:

31 March 2009 (5pm): Updated Scheme Return information including s.179 valuations.

7 April 2009 (5pm): Notification of partial block transfers.

30 June 2009 (5pm): Final certification of partial block transfers.

All certificates and data should be submitted through “Exchange”, the Pension Regulator’s online information system, with the exception of the hard copy documents required to support all new and some renewed contingent asset arrangements, which must be sent to the PPF office in Croydon.

The PPF also encourages schemes and employers to engage with Dun & Bradstreet (D&B), the PPF’s Insolvency Risk Provider, as the failure scores used for the 2010/11 levy calculation will be those applicable as at 31 March 2009.

For more information, please see our Alert: “Contingent Assets: Hurry while stocks last” dated 23 January 2009.²

Further information is also available on the PPF Levy Certificates & Exchange web page:

http://www.pensionprotectionfund.org.uk/index/pension_protection_levy-2/levy_certificates_and_exchange.htm

² Available from the client area of our website or from your usual Sackers contact

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3.2 Consultation on PPF powers to amend contract terms

Under section 161 of the Pensions Act 2004 and regulation 2 of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006, when the PPF assumes responsibility for a scheme it has the power to disapply any term of a contract which has been entered into by that scheme, or to substitute a reasonable term or condition in its place, if it considers that term to be “onerous”.

According to the Board of the PPF, industry concern that existing contracts might be disclaimed when a scheme transfers to the PPF has led some fund managers to insert an additional trigger event into termination clauses in their contracts. Such clauses would automatically trigger early termination of the contract on the transfer of a scheme to the PPF.

Given that such early termination will generally not be in the interests of either trustees or fund managers, the Board of the PPF is seeking to address this by providing standard wording for agreements between trustees and counterparties. The proposed wording provides that the Board of the PPF will notify affected fund managers, before a scheme transfers to the PPF, as to whether or not it proposes to exercise its section 161 power. If such wording is adopted, a transfer would not constitute an automatic trigger for early termination of the contract, provided the PPF Board has notified fund managers affected by the transfer.

The PPF has published an open letter consulting on its proposed solution (which includes draft wording) to address these concerns. When the consultation is complete, the PPF will publish written guidance on its website.

To view the PPF’s open consultation letter, please click on the link below:

http://www.pensionprotectionfund.org.uk/s161_letter.pdf

4 PERSONAL ACCOUNTS DELIVERY AUTHORITY (PADA)

4.1 Framework of research agencies to be established

PADA is establishing a new framework of research agencies “to meet the emerging need to commission the best external organisations and individuals to undertake social and economic market research and consultation on behalf of the organisation”.

It is envisaged that the framework will comprise approximately 50 agencies across different specialist areas, including qualitative research, quantitative research and expert research. The framework will be set up for a period of two years, with an option to extend it for a further two years.

To view PADA’s press release, please click on the link below:

http://www.padeliveryauthority.org.uk/documents/research_press_release_2.pdf