Sackers extra

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

ACTUARIAL PROFESSION

Institute and Faculty of Actuaries President-elect for 2012-2013

The Council of the Institute and Faculty of Actuaries has elected David Hare to be its President-elect. Dr Hare will take this position on 25 June 2012 when Philip Scott becomes President and current President, Jane Curtis, becomes Immediate Past-President.

A specialist in life insurance, Dr Hare is shortly to become a partner with Deloitte following a career with Scottish Mutual, Abbey National and Standard Life.

Press release

DEPARTMENT FOR WORK AND PENSIONS

Guide to social security benefit and pension rates

The DWP has published an updated guide to social security benefit and pension rates.

Red tape challenge - pensions in the spotlight

Between 19 April and 10 May 2012, pensions regulations such as defined benefit legislation, the protection regime and legislation relating to the role of the trustee will be examined as part of a cross-Government drive to abolish outdated or unnecessary regulations, known as the "red tape challenge".

The Government is urging people who deal with pensions processes day-to-day to tell the DWP specifically which regulations they think are too burdensome. Responses will be used to produce a set of proposals on regulatory reform. These proposals will be reviewed by a Ministerial "Star Chamber" in Autumn with the presumption that all burdensome regulations will go unless Departments can justify why they are needed – well defined and necessary regulation will be kept.

Press release

FINANCIAL REPORTING COUNCIL (FRC)

Consultations on the UK Corporate Governance Code, Stewardship Code and Auditing Standards published

On 20 April 2012, the FRC began consultation on proposed revisions to the UK Corporate Governance Code and International Standards on Auditing (UK and Ireland) to give effect to its Effective Company Stewardship proposals. The FRC is also consulting on updates to the Stewardship Code.

UK Corporate Governance Code

The UK Corporate Governance Code sets out good practice for UK listed companies on issues such as board composition and effectiveness, risk management, audit committees and relations with shareholders. The Stewardship Code sets out good practice for institutional investors on monitoring and engaging with investee companies and reporting to clients and beneficiaries.

The proposed changes to the UK Corporate Governance Code include:

- requesting FTSE 350 companies to put the external audit contract out to tender at least every ten years;
- asking boards to explain why they believe their annual reports are fair and balanced;
- encouraging more meaningful reporting by audit committees;
- providing more guidance on explanations that should be provided to shareholders when a company chooses not to follow the Code; and
- a requirement for boards to report on their gender diversity policies.

Stewardship Code

The proposed changes to the Stewardship Code include

- clarifying what is meant by stewardship, and the respective responsibilities of asset owners and asset managers; and
- asking investors to disclose their policy on stock lending, and whether they recall lent stock for voting purposes.

Auditing Standards

The proposed changes to the auditing standards are mainly directed at:

- enhancing auditor communications by requiring the auditor to communicate to the audit committee information that the auditor believes the committee will need to understand the significant professional judgments made in the audit; and
- Extending auditor reporting by requiring the auditor to report, by exception, if the board’s statement of why the annual report is fair and balanced is inconsistent with the knowledge acquired by the auditor in the course of performing the audit, or if the

matters disclosed in the report from the audit committee do not appropriately address matters communicated by the auditor to the committee.

Subject to the outcome of the consultations, all the proposed changes will apply to financial years beginning on or after 1 October 2012.

Press release

PENSION PROTECTION FUND

New publication for scheme members

The PPF has published a new document entitled "What is the PPF and What Do We Do?" for scheme members who are about to enter a PPF Assessment Period, or for those who would just like more information about the PPF.

The publication includes general information about the PPF, what they do, how they are funded, what happens during an assessment period and the compensation they pay. It replaces previous member leaflets such as "Help My Employer's Gone Bust", "Your Journey to Becoming a Member of the PPF" and "Introducing the PPF", which are being removed from the site.

THE PENSIONS REGULATOR

Choosing early automatic enrolment

TPR has informed employers that they may bring forward their staging date for automatic enrolment. If they wish to do this they must notify TPR in writing at least one calendar month before the new (earlier) date and provide certain information, for example, the employer's PAYE reference number and Companies House registration number (or equivalent).

Employers with a 1 October 2012 staging date may bring it forward to 1 July, 1 August or 1 September 2012. Those with a staging date of 1 November 2012 may bring it forward to 1 July, 1 August, 1 September or 1 October 2012. Once a staging date has been changed it will not be possible to revert to the original date.

CASES

Mr R Clarke and the Armed Forces Pension Scheme

In a recent decision, the Pensions Ombudsman (PO) rejected a complaint from a pensioner that, in deciding to retire early, he relied on his belief that his pension would be increased to take account of the cost of living as measured by the Retail Prices Index (RPI) not the Consumer Prices Index (CPI).

Facts

Mr Clarke agreed to take early retirement from the Armed Forces Pension Scheme (the Scheme) in 1995. He believed that his pension would increase by RPI. Had he not retired early he could have remained in service for another 15 years.

He relied on the Scheme booklet and other information which referred to RPI as the measure for providing inflation protection. However, the regulations which governed the Scheme's pension increases referred to the statutory basis for indexation and, as such, were directly affected by the move from RPI to the Consumer Prices Index (CPI) in 2011.

Mr Clarke complained that:

- the Ministry of Defence should keep its side of the contract; and
- he only made the decision to retire early having been assured his pension would be adequately protected from inflation. Otherwise he would have remained in service with the RAF until 2010 to build up his pension.

Decision

While the PO accepted that the material on which Mr Clarke relied may have given the impression that RPI increases would be applied, on analysis, the statements made did not amount to a contractual obligation to provide RPI increases. For example, in one place, the document referred to "inflation protection" rather than a specific index. In another a reference to RPI was made in the context of revaluation increases for the period of deferment, rather than increases to pensions in payment. In addition, the PO noted that he would expect the booklet to contain caveats explaining that the Scheme's trust deed and rules were overriding.

In relation to Mr Clarke's claim that he would not have retired early had he realised that he might not receive RPI increases, the PO was satisfied that this was not the case. In his opinion, had Mr Clarke been informed that the index used to measure inflation might alter in the future, Mr Clarke would still have considered that his pension would be protected from inflation in a reasonable way.

It was not necessary for the PO to consider whether RPI or CPI is the more accurate measure of inflation; they are simply different reasonable measures.

Comment

This is an encouraging decision for trustees who have faced complaints from members about the change from RPI to CPI as the basis for increases (or revaluation in deferment). However, each such case will turn on its facts and the outcome will depend on the wording of the documentation concerned and the representations made.