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
HMRC: HM Revenue & Customs
NAPF: National Association of Pension Funds
NEST: National Employment Savings Trust
PPF: Pension Protection Fund
TPR: The Pensions Regulator

LEGISLATION

Finance Bill 2010-11

Amendments to the Finance Bill were proposed on 19 May 2011 at the House of Commons Committee stage of the Bill's passage through Parliament.

Among other things, the proposed amendments are designed to:

- correct a drafting error in the provisions setting the pension input period (PIP) for new joiners. It is intended that the default position in these circumstances should be that the PIP is aligned with the tax year. As originally drafted, the Bill inadvertently ended the PIP the day before the end of the tax year; and

- adjust the method for calculating the closing value of a member's benefits in a DB arrangement if he or she retires during a PIP. The proposed amendment would revert to looking at the actual pension drawn by the members in line with wording initially proposed by the Treasury in December 2010. (The March 2011 draft required the notional value of the member's pension to be added back in on the assumption that he or she retired in good health at normal retirement.)

The Bill will next be considered in Public Bill Committee on 24 May 2011.

The Occupational Pension Schemes (Contracting-out) Amendment Regulations 2011

Regulations have been laid before Parliament today (23 May 2011), which incorporate into legislation essential information currently contained in the Board for Actuarial Standards Guidance Note 28 (GN28).

Existing legislation states that the actuary "must follow guidance note Guidance Note 28 adopted or prepared, and from time to time revised, by the Board for Actuarial Standards" when deciding whether a scheme meets the statutory standard. However, GN28 is due to be withdrawn by the Board for Actuarial Standards in 2011 and replaced by principles-based guidance.

GN28 provides guidance on comparing a pension scheme's benefits to those of the reference scheme for the purposes of contracting-out of the State Second Pension. Actuaries are responsible for comparing the benefits provided by a contracted-out occupational pension scheme against the reference scheme (the "reference scheme test").

Where a contracted-out scheme meets the requirements of the reference scheme test, a reference scheme test certificate can be completed by the actuary for that scheme. Schemes are re-tested, usually at intervals of no more than three years, to ensure continuing compliance, unless there has been a relevant change of circumstances within that time in which case further testing may be required.

The regulations are due to come into force on 1 October 2011 and it is expected that GN28 will be withdrawn from this date.

Further information can be found in the Explanatory Memorandum which accompanies the Regulations.

Abolition of DC Contracting-out: amending regulations finalised

A number of regulations have been finalised in relation to the abolition of DC contracting-out which will take effect from 6 April 2012 (the Abolition Date):

- The Pensions Act 2007 (Commencement No. 4) Order 2011 confirms 6 April 2012 as the Abolition Date, when contracting-out of the State Second Pension will cease for DC pension schemes. It also brings into force certain consequential amendments.

- The Pensions Act 2008 (Commencement No. 10) Order 2011 brings into force section 106 of the Pensions Act 2008, under which special provisions for protected rights members will fall away from the Abolition Date.

- The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 are made under section 15 of the Pensions Act 2007 which provides that contracting-out certificates for DC schemes and appropriate schemes cease to have effect from the Abolition Date. The regulations make consequential amendments to subordinate legislation as a consequence of the abolition of DC contracting-out and provide for transitional provisions for the three years following abolition. The majority of the amendments will come into force on the Abolition Date.

- The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011 makes consequential amendments in relation to the abolition of protected rights (including changes to regulations governing disclosure and transfers). Again, most of the amendments take effect from the Abolition Date.

Two additional sets of draft regulations make provision for further consequential amendments:

- The draft Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) (No 2) Regulations 2011

- The draft Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No 2) Order 2011

Further information can be found in the Explanatory Memorandum which accompanies the Orders and draft regulations.

DEPARTMENT FOR WORK AND PENSIONS

The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) (Amendment) Regulations 2011: Consultation on draft regulations

In the light of changes which have seen the Annual Allowance (AA) reduced from £255,000 to £50,000 from the tax year 2011/12, the Government consulted on options to meet high AA charges from pension benefits. As a result of the Government's consultations, AA charges may be met from all types of pension scheme (at the point when the charges arise), subject to an eligibility threshold of £2,000. (For more information, please see our Alert: "Annual Allowance Charge payment option confirmed" dated 8 March 2011.)

However, without further changes to legislation, the ability for members to give up their pension benefits in order to pay the charges would breach section 91 of the Pensions Act 1995 (Inalienability of occupational pension). The DWP is therefore now consulting on proposed amendments to the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 2007 which are designed to allow a member to agree to a surrender of their rights under a pension scheme for the purpose of meeting an AA charge from their pension benefits.

The consultation closes on 17 June 2011.

Workplace pension reform: Informal consultation on draft regulations

The Government is in the process of finalising the legislative changes needed to support the introduction of workplace pension reforms in 2012. The DWP has announced that it is currently consulting informally on draft regulations and guidance relating to the reforms, with the intention of identifying issues that need to be addressed before finalising the policy.

The informal consultation closes on 31 May 2011. A formal consultation on the draft legislation and guidance is expected to take place over the summer.

Further information is available from the DWP's web page on the workplace pension reforms (although the consultation itself was circulated to a limited group only and has not been made available here).

NATIONAL ASSOCIATION OF PENSION FUNDS

Foreign Exchange 'made simple' for Pension Funds

The NAPF has published a new guide in its 'made simple' series, which is designed to help pension funds better understand Foreign Exchange (FX) and how to cope with its risks.

NAPF Press Release

THE PENSIONS REGULATOR

Automatic Enrolment: TPR guidance

Starting in October 2012, employers will be required to automatically enrol "eligible jobholders" into a qualifying pension arrangement or the National Employment Savings Trust. (An eligible jobholder is a worker between the ages of 22 and State Pension Age, who ordinarily works in the UK and who earns at least £7,475 per year). This duty will be introduced in stages, generally applying to larger employers first.

TPR notes that letters which signal the countdown of 18 months until the first employers must comply with this duty have started to be sent to the chief executives of the UK's biggest employers.

Over the course of the next six months, such letters will be sent to some 600 of the largest organisations (which employ around a third of the UK workforce or around 10m employees) to alert them to their new duties. In due course, every employer in the UK will receive at least two letters as they approach their duty date.

TPR has also provided the following information:

- a summary of duties;
- an indicative table of staging dates for the new duties;
- an employer checklist for large employers who will receive their letter from TPR in the next few months;
- detailed guidance on all aspects of the workplace pension reforms, which is designed to be suitable for large employers with experience of providing pensions, advisers and intermediaries; and
- a guide for software developers which was released in April to more than 500 payroll professionals, aimed at helping payroll software developers implement changes to their products.

Further materials from TPR which are intended to go live later this year include:

- Interactive tools: online tools designed to help smaller employers without previous engagement with pensions to understand the new duties; and
- a Trustee checklist: aimed at trustees of existing schemes, TPR's checklist will set out some of the issues that should be taken into account when existing pension schemes are considered for auto-enrolment.

TPR Press Release