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
NEST: National Employment Savings Trust
PPF: Pension Protection Fund
PPI: Pensions Policy Institute
TPR: The Pensions Regulator

LEGISLATION

Finance Act gets Royal Assent

The Finance Act 2011 received Royal Assent on 19 July 2011. The Act brings onto the statute books significant changes to pensions tax relief, including legislation to reduce the Annual Allowance (AA) with effect from the 2011/12 tax year.

Tax relief measures formalised in the Finance Act 2011 include:

- from the tax year 2011/12, the AA will be £50,000, representing a significant reduction from the previous £255,000 figure;
- depending on a scheme's pension input period (the period used to assess annual increases in the value of members' pension savings for the purpose of testing against the AA), the new allowance can have effect from 14 October 2010, when the Government first announced its tax relief changes;[1] and
- the Lifetime Allowance will be reduced to £1.5 million (from £1.8 million) in April 2012.

The Government expects that in most cases, pension savings will be managed so that the AA is not exceeded. However, where members exceed the AA, for example, due to spikes in accrual, they will be able to take advantage of new carry forward provisions. For those who would potentially exceed the reduced AA on a regular basis, it may be necessary to tailor scheme provisions to prevent AA charges arising.

For more information, please see our Alert: "Pensions Tax Relief and the Order of the Finance Act" dated 20 July 2011.

Regulations laid before Parliament

On 22 July 2011, ten statutory instruments (SIs) which relate to the changes to the pensions tax regime under the Finance Act 2011, were laid before Parliament. These SIs will come into force on 11 August 2011.

Restrictions on pensions tax relief

- The Registered Pension Schemes (Provision of Information) (Amendment) (No.2) Regulations 2011

  These regulations set out the requirements on scheme administrators and employers to ensure that members have access to the information they need to calculate and report any AA charge.

  Explanatory Memorandum

[1] For more information please see our Alert: "Restricting pensions tax relief: the verdict" dated 14 October 2010

- The Registered Pension Schemes (Notice of Joint Liability for the Annual Allowance Charge) Regulations 2011

  This instrument provides details of the information that an individual must give to their pension scheme administrator (generally, the trustees of the scheme) if they want any AA charge which arises to be met from the scheme in return for a consequential adjustment to their pension benefits, under the "Scheme Pays" arrangements.

  Explanatory Memorandum

- The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) (Amendment) Regulations 2011

  Following a consultation which closed in June 2011 (see 7 Days dated 23 May 2011), these regulations amend the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 2007 in order 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.

  Explanatory Memorandum

- The Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011

  Trustees of a registered pension scheme may satisfy an AA charge on behalf of a member of the scheme from the member's pension benefits under Scheme Pays. These regulations provide that any scheme rules which would otherwise prevent such an adjustment to the member's benefits are modified to allow for such adjustments.

  Explanatory Memorandum

- The Registered Pension Schemes (Lifetime Allowance Transitional Protections) Regulations 2011

  These regulations provide that an individual may give notice to HMRC that they intend to rely on a new form of transitional protection ("fixed protection") to reduce or eliminate any potential lifetime allowance charge from April 2012. They also set out the steps which an individual and HMRC have to take to enable the individual to rely on the transitional protection, as well as what happens if the notice is refused or the individual no longer meets the conditions for transitional protection.

  Explanatory Memorandum

Removal of the requirement to purchase an annuity at age 75

- The Registered Pension Schemes (Transfer of Sums and Assets) (Amendment) (No. 2) Regulations 2011

  These regulations make consequential and other minor amendments to existing regulations relating to transfers from one pension arrangement to another, to reflect changes made by the Finance Act 2011 which remove the effective need to take an annuity by age 75.

  Explanatory Memorandum

- The Registered Pension Schemes (Prescribed Requirements of Flexible Drawdown Declaration) Regulations 2011

  These regulations set out the conditions which a scheme member, or their dependant, needs to meet for a declaration to be valid for the purposes of taking flexible drawdown.

  Explanatory Memorandum

- The Registered Pension Schemes (Relevant Income) Regulations 2011

  This instrument details the payments which do not count as relevant income for the purpose of meeting the minimum income requirement under the flexible drawdown rules.

  Explanatory Memorandum

Transitional provisions and miscellaneous amending regulations

- The Taxation of Pension Schemes (Transitional Provisions) (Amendment) (No.2) Order 2011

  This Order makes consequential changes as a result of the Finance Act 2011, relating to the removal of the effective need to take an annuity by age 75 and the reduction of the amount of tax relief an individual can receive on their pension savings.

  Explanatory Memorandum

- The Registered Pension Schemes (Miscellaneous Amendments) Regulations 2011

  These Regulations also make a number consequential changes as a result of the Finance Act 2011, relating to the removal of the effective need to take an annuity by age 75 and the reduction of the amount of tax relief an individual can receive on their pension savings.

  Explanatory Memorandum

Several of these instruments were first published in draft by HMRC in May 2011 (see 7 Days dated 30 May 2011).

DEPARTMENT FOR WORK AND PENSIONS

Automatic enrolment: Consultation on draft regulations and guidance

On 19 July 2011, the DWP launched a further consultation on workplace pension reforms.

This latest consultation follows the findings of an independent review published in October 2010, "Making Auto-Enrolment Work" (the Review).[2] As well as bringing into effect the remaining recommendations from the Review, it also seeks to iron out the finer (and hopefully final) points of automatic enrolment.

A key recommendation in the Review was to make the certification process for DC arrangements more straightforward. Designed as an administrative easement for employers who calculate their pension contributions from the first pound (rather than on qualifying earnings), the proposals will allow schemes to self-certify if:

[2] Please see our Alert: "NEST comes home to roost!" dated 28 October 2010

- a minimum contribution of 9% of pensionable earnings is paid to the scheme for each jobholder (including at least a 4% employer contribution);
- a minimum contribution of 8% of pensionable earnings is paid (with at least a 3% employer contribution), provided that total pensionable earnings of all relevant jobholders in aggregate constitute at least 85% of their total earnings; or
- a minimum contribution of 7% of total earnings is paid (with at least a 3% employer contribution) - this requires 100% of earnings to be pensionable.

"Pensionable earnings" here means whichever is the higher of the employer's definition of pensionable earnings or basic pay, from the first pound.

Draft guidance for employers and their advisers also forms part of the consultation, setting out how employers can use certification "as a means of ensuring that their money purchase and/or hybrid scheme can qualify to be used for automatic enrolment and related duties".

The consultation closes on 11 October 2011.

For more information, please see our Alert: The Road to 2012: Final Preparations Underway (dated 22 July 2011).

DWP Press Release

HM REVENUE & CUSTOMS

"Pension Schemes Online" guide

On 18 July 2011, HMRC published a revised version of its Online User Guide. The updates clarify the position regarding the submission of Event Reports online.

HM TREASURY

Public Service Pensions

As part of the Government's review of public service pensions[3], it has previously announced its commitment to retaining a form of DB pension in the public sector and protecting accrued rights so that all benefits earned by members up to the point of change will be protected.

In a Written Ministerial Statement on 19 July 2011, the Chief Secretary to the Treasury, Danny Alexander, gave an update on progress made to date and the process going forwards.

The Statement notes that in relation to public service pension reforms, a basis for agreement has been established in several areas. Among other things, the Government and the TUC have agreed that initial discussions on reform should be opened at scheme level, with the central process continuing alongside this. However, differences remain on some of Lord Hutton's key recommendations.

A formal consultation is expected to begin shortly on each scheme's proposals for member contribution increases from April 2012, in a bid to meet the target of £1.2bn of savings set out in the Spending Review for 2012/13. The consultations are due to be completed by the end of October 2011, to ensure implementation by April 2012.

In addition, headline proposals for schemes are to be put forward by the end of October 2011, after which further work will take place to finalise detailed scheme design.

[3] Please see our Alert: "Hutton recommends new career average scheme" dated 10 March 2011

Further detail was set out in a letter to the Trades Unions Congress (TUC) General Secretary, Brendan Barber, on 18 July 2011.

NATIONAL EMPLOYMENT SAVINGS TRUST

Annual report and accounts

NEST has published its Annual Report for the period 1 April 2010 to 31 March 2011, which contains the financial statements for NEST Corporation (and also covers the last three months of its predecessor, the Personal Accounts Delivery Authority).

The report notes that significant events for NEST Corporation over the course of the year included:

- the Review of auto-enrolment (see further DWP section above);
- finalising the terms of the Government loan from the DWP, which will provide the working capital for NEST;
- determining the investment approach for NEST and its Statement of Investment Principles; and
- establishing a Framework Document and Memorandum of Understanding with the DWP, to set out how they will work effectively together.

The year ahead also looks set to be busy, as NEST takes on volunteer employers who will effectively test the systems and processes in place ahead of the formal application of the statutory duty of auto-enrolment in 2012.

NEST Press Release

PENSIONS POLICY INSTITUTE

The implications of Government policy for future levels of pensioner policy

The PPI has published a report (commissioned by Age UK), which projects future levels of pensioner poverty under the current state pension system and under a range of alternative Government policies.

The policies considered in the research include changes to the level of existing means tested and other benefits paid to pensioners and under the introduction of a single tier state pension of £140 a week, as proposed in the recent Government Green Paper.[4]

PPI Press Release

PENSION PROTECTION FUND

Revised actuarial factors

On 21 July 2011, the PPF published revised factors for:

- commutation;
- early retirement; and
- the compensation cap.

[4] See our Alert: "A State Pension for the 21st century?" (dated 6 April 2011) for more information

The new factors (which are available from the technical guidance section of the PPF website) should be used for all calculations with an effective date on or after 1 August 2011.

SOCIAL MARKET FOUNDATION

Savings on a Shoestring: A whole new approach to savings policy

The Social Market Foundation has published a paper which argues for a whole new approach to savings policy.

The paper notes that existing policies, such as pensions tax relief, provide relatively large benefits to a relatively small group of people. It suggests that better alignment of this expenditure to the goals of spending policy might see it used to offer smaller savings incentives to a much wider group.

One such suggestion is to use existing resources more effectively, for example, by replacing pensions tax relief with a more broadly based, pension contributions matching scheme.

THE PENSIONS REGULATOR

TPR Board and Determinations Panel appointments

On 18 July 2011, TPR announced the appointment of two executive directors: Stephen Soper and Charles Counsell, to the TPR Board. Messrs Soper, and Counsell were recently promoted to the roles on a substantive basis, having been in the posts in an acting capacity since February 2011.

On 19 July 2011, it was announced that Peter Hinchliffe, Andrew Long, Elizabeth Neville, Alasdair Smith and Anthony Stern will replace some existing members of the Determinations Panel who will be stepping down at the end of their second term early in 2012.