

26 July 2010

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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)

CPI: Consumer Prices Index

DB: Defined benefit

DC: Defined contribution

DWP: Department for Work and Pensions

HMRC: HM Revenue & Customs

PPF: Pension Protection Fund

RPI: Retail Prices Index

TPR: The Pensions Regulator

LEGISLATION

Equitable Life (Payments) Bill

The [Equitable Life \(Payments\) Bill](#) was published on 22 July 2010, together with draft [Explanatory Notes](#).

The Bill authorises the Treasury to make payments to policyholders who were adversely affected by the Government's maladministration in the regulation of the Equitable Life Assurance Society (Equitable Life). The Bill is designed to enable implementation of an Equitable Life Payments Scheme.

The Second Reading of the Bill in the House of Commons is scheduled for 14 September 2010. Further information on progress of the Bill can be found on the [Parliament website](#).

The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (Draft Order)

The Equality Act 2010 was one of the last "acts" of the outgoing Labour administration. It takes a huge step towards harmonising existing discrimination legislation, such as equal pay and age discrimination laws. Once in force, it will provide a single approach to discrimination issues wherever possible.

This [draft Order](#), has been produced so that the Act can fulfil its policy objectives. As noted the [Explanatory Memorandum](#) which accompanies the draft Order, "the Order ensures that the Act itself works properly, that other Acts continue to operate effectively where there are cross-references to existing equality legislation and, where appropriate, makes supplementary provision to harmonise non-discrimination provisions in other legislation to reflect changes in the law." The amendments are not designed to change the existing law, rather to ensure that its effect is maintained.

For more information on pensions and the Equality Act, please see our Alert: "[A new age of equality](#)" dated June 2010.

The Transfer of State Pensions and Benefits (Amendment) Regulations 2010

A person employed by an EU institution is entitled to transfer the cash equivalent value of the credits held on their National Insurance account (that would provide rights to UK contributory state benefits) to the Pension Scheme of the European Union (PSEU). These transfer provisions are designed to ensure parity of treatment between people employed in EU institutions and those employed within EU Member States.

These [regulations](#) amend the Transfer of State Pensions and Benefits Regulations 2007 in relation to the contributory benefit rights, built up through paying or crediting National Insurance contributions, which can be transferred to the PSEU. The amendments bring

rights which can be transferred-out into line with the rights which may be transferred-in under the PSEU.

The regulations will come into force on 1 November 2010. Further information can be found in the [Explanatory Memorandum](#) which accompanies the Order.

HM REVENUE & CUSTOMS

Pension Schemes Newsletter 41

On 22 July 2010, HMRC Pension Schemes Services (PSS) published [Newsletter 41](#) relating to work which it is currently undertaking in relation to the "Relief at Source" (RAS) process.

The Registered Pension Schemes (Relief at Source) regulations were made in 2005 and came in to force from 6 April 2006. PSS is now reviewing how well the RAS regime is functioning and is seeking views from customers who operate RAS.

PSS have also published a series of "[frequently asked questions](#)" in connection with this review. HMRC customers wishing to participate in the review should register their interest by 10 September 2010.

HM TREASURY

Implementing the restriction on pensions tax relief: Informal Government consultation

The Coalition Government's Emergency Budget in June hailed a review of the former Labour Government's plans to restrict tax relief on pension contributions for high earners.

While the Government is keen to ensure that any new approach will yield as much revenue as the system which had been due to come into force in April 2011, it believes that the method put forward for doing so in the Finance Act 2010 "could have unwelcome consequences for pension saving, bring significant complexity to the tax system, and damage UK business and competitiveness". One suggested alternative is a significant reduction in the annual allowance from the current £255,000 to an amount in the region of £30,000 - £45,000.

The Government has now launched an informal consultation, seeking views on this proposal from representative groups, employers, pension schemes, experts and other interested parties.

The Treasury is collating views "over the summer", with a view to publishing legislation on the proposed approach in the autumn.

[HM Treasury Press Release](#)

Sir John Chadwick's final report on Equitable Life

The Treasury has announced the publication of Sir John Chadwick's [final report](#) in relation to losses suffered as a result of Government maladministration in the regulation of Equitable Life.

In January 2009, Sir John was appointed by HM Treasury to advise on matters arising from the Government's Response to the Report of the Parliamentary and Health Service Ombudsman, on her investigation into the prudential regulation of Equitable Life. Sir John published an interim report in August 2009, setting out, among other things, an approach for assessing relative loss, so that the ex gratia payment scheme could be delivered fairly, quickly and with minimal burden placed on policyholders. This was followed by Sir John's

third interim report in March 2010. (For details of Sir John's earlier reports, please see 7 Days dated [8 March 2010](#) and [24 August 2009](#).)

Alongside the final report, the Government has published figures relating to the calculation of relative losses suffered by policyholders, based on detailed analysis of Equitable Life's database. These estimates were provided to the Treasury by Towers Watson.

The Government will now consider Sir John's report, together with representations from other interested parties. A full response including the amount of funding available for the scheme will be provided at the autumn Spending Review on 20 October 2010. As recognised by the Parliamentary Ombudsman, any scheme will need to take the potential impact on the public purse into account.

The Government's [next steps](#) are summarised on the Treasury website, where Sir John's report and related documents can be found.

[HM Treasury Press Release](#)

Establishment of the Independent Commission on Equitable Life Payments

In May 2010, the Government said that it would establish an Independent Commission to advise the Government on the best way to allocate payments to Equitable Life policyholders under the payments scheme which is to be set up under the Equitable Life (Payments) Bill (see above). The Commission will help develop scheme design, in the light of the Parliamentary Ombudsman's recommendation that the payment scheme should be independent of the Government.

Brian Pomeroy, John Tattersall and John Howard have agreed to form the Independent Commission. The Commission is due to begin work imminently, with a view to reporting in early 2011.

[HM Treasury Press Release](#)

LOCAL GOVERNMENT PENSIONS COMMITTEE

Guidance on the pensionability of equal pay settlements

The Local Government Pensions Committee (LGPC) has published a [circular](#) to provide authorities with guidance on the pensionability of equal pay settlements in England and Wales.

The guidance concerns the treatment, for the purposes of the Local Government Pension Scheme (LGPS), of payments made following equal pay claims. It considers the extent to which payments made in respect of equal pay claims fall within the LGPS definition of pay and should therefore be counted for pension purposes.

Any authorities who have yet to finalise equal pay claims will need to take account of the guidance.

PENSIONS OMBUDSMAN

Annual report and accounts 2009/10

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman) has today (26 July 2010) published its [Annual Report and Accounts](#) for 2009/10.

Highlights of the report include:

- as in previous years the single matter giving rise to more complaints than any other was ill-health pensions (11% of resolved complaints);
- the number of enquiries received increased by 18% (to 3632) and the number of cases taken on for investigation increased by 22% (to 950). It is not clear as yet whether these increases represent a single, unusual year or the start of an upward trend;
- 11% more than the target of 800 cases were resolved; and
- expenditure was within budget at £2.86m.

THE PENSIONS REGULATOR

Statement on the Consumer Prices Index

On 21 July 2010, TPR published a [statement](#) on CPI which is designed to assist trustees and employers in managing the impact of the proposed switch from RPI as the measure for applying increases to public sector pensions (both in deferment and to pensions in payment) from April 2011. The statement also outlines how TPR will deal with this issue in its regulatory processes.

This follows the Chancellor's statement on 8 July 2010, announcing the Government's intention to apply CPI to increases granted by occupational pension schemes as well as public sector schemes (for more details, please see 7 Days dated [12 July 2010](#)).

TPR's short statement suggests that trustees may wish to prepare by:

- reviewing their scheme rules; and
- "should plan to communicate with members on the impact" of this change.

TPR also makes it clear that it expects decisions to be made on the current state of law. For example, it suggests that scheme funding decisions should go ahead and aim to reduce the length of any recovery plan only when the impact of the change on scheme liabilities is clear.

TPR states that once all the changes, including any legislative provisions, are finalised, it will expand its guidance and provide further information "on the principles it will use to deal with any impact on schemes currently engaged in our regulatory processes".

Annual Report and Accounts 2009/10

On 22 July 2010, TPR published its [annual report and accounts](#) for the year 2009/10.

The report details TPR's work over the course of the year, which has included:

- a focus on raising standards of record-keeping ahead of the new duty on employers to enrol staff automatically into a qualifying pension arrangement from 2012 (subject to DWP review) and an announcement that TPR would recommend specific targets for standards of common data and carrying out scheme audits;
- free workshops on DB funding, internal controls and record-keeping, attended by over 1,500 industry representatives;
- the expansion and revision of the code of practice on Trustee Knowledge and Understanding;

- new modules in the Trustee toolkit relating to buy-outs and buy-ins;
- the consideration of over 2,500 cases during the period, of which more than 2,000 involved the scrutiny of recovery plans for defined benefit schemes;
- further development of TPR's online Exchange system for submission of information to TPR. Recovery plans can now be submitted electronically, together with notifiable events, winding up and breach of law reports, and levy payments.

An increase in TPR's casework has also been seen over the year, with more than 30 anti-avoidance cases being investigated at the end of March 2010, including cross-border insolvencies and complex restructurings.

TPR notes that all of these activities and interventions were delivered within its 2009/2010 budget of £27.4m.

[TPR Press Release](#)