28 March 2011

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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
BIS: Department for Business, Innovation and Skills
CPI: Consumer Prices Index
DWP: Department for Work and Pensions
FAS: Financial Assistance Scheme
HMRC: HM Revenue & Customs
NEST: National Employment Savings Trust
PPF: Pension Protection Fund
RPI: Retail Prices Index
TPR: The Pensions Regulator

LEGISLATION

The Guaranteed Minimum Pensions Increase Order 2011

In accordance with section 109(1) of the Pension Schemes Act, this Order specifies the increase payable by contracted-out occupational DB pension schemes in respect of guaranteed minimum pensions (GMPs).

The level of inflation proofing is limited to the lesser of the increase in the general level of prices or 3%. CPI for the appropriate review period (1 October 2009 to 30 September 2010) was 3.1%. The GMP increase is therefore limited to 3%.

The Order was first published in draft in February 2011[1]. It will come into force on 6 April 2011.

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

The Occupational Pension Schemes (Levy Ceiling) Order 2011

Section 175 of the Pensions Act 2004 requires the PPF to set a levy for DB occupational pension schemes (and the DB element of hybrid schemes) to fund the compensation it will pay to scheme members if their employer becomes insolvent and the scheme has insufficient assets to enable it to provide benefits up to the protected PPF level.

The levy ceiling (the maximum amount which can be raised by the levy) has been uprated by affirmative Order by 2.4%, in line with the increase in the general level of earnings. Following its publication in draft in February 2011[2], the final Levy Ceiling Order, specifies the levy ceiling figure to be imposed on the pension protection levy for the financial year beginning 1 April 2011 as £892,092,092 (up from £871,183,684 in 2010).

The Order will come into force on 31 March 2011.

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

The Pension Protection Fund (Pension Compensation Cap) Order 2011

The final PPF Compensation Cap Order for 2011 has also been published. It provides for the level of the PPF compensation cap to be increased to £33,219.36 (up from £33,054.09) from 1 April 2011. This figure is based on a 0.5% increase in average earnings over the review period.

[1] Please see 7 Days dated 7 February 2011
[2] Ibid.

When applying the new compensation cap to members whose PPF entitlement is restricted to 90% of benefits (i.e. people below their scheme's normal retirement age), the maximum level of compensation payable to an individual at age 65 will be £29,897.42.

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

The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011

In the June 2010 Emergency Budget, the Coalition Government announced that it intended to use the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI) as the measure for applying increases (both in deferment and to pensions in payment) to public sector pensions from April 2011. It subsequently announced that the change would also apply to private sector occupational pension schemes and to relevant payments made by the PPF and FAS.

These regulations effect the change from RPI to CPI for FAS compensation purposes.

The regulations generally come into force on 31 March 2011.

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

The Social Security (Contributions) (Amendment No. 2) Regulations 2011

These regulations specify the levels of Lower and Upper earnings limits (LEL and UEL), as well as the Primary and Secondary Thresholds (PT and ST), for the payment of Class 1 National Insurance Contributions (NICs) for the tax year 2011/12.

The LEL (which is the level of earnings at which entitlement to contributory benefits begins to accrue) has been linked to the amount of the basic State Pension (BSP) since 1975. However, the Pensions Act 2007 committed the Government to increasing BSP by earnings before what would then have been the end of the next Parliament (now the current Parliament). The statutory link between the LEL and the level of BSP was removed to avoid a large increase in the BSP causing significant numbers of low paid workers to be taken out of benefit entitlement.

In the Emergency Budget on 22 June 2010, the Chancellor announced that from April 2011, BSP would be re-linked to earnings and that pensioners would be protected by a "triple guarantee" that the basic State Pension would rise in line with earnings, prices or a 2.5% increase - whichever is the greater.

Following the removal of the statutory link between the LEL and basic State Pension, these regulations increase the LEL to £102 per week.

Since 2009, the UEL has been aligned with the level at which the higher rate of income tax is payable. The UEL for 2011/12 has been confirmed as £817 per week, representing a reduction on the previous year's level in order to maintain the alignment between the level at which the higher rate of income tax is payable and the UEL.

The PT and ST are currently aligned at £110. The PT is increased to £139 per week, and the ST to £136 for 2011/12.

The regulations will come into force on 6 April 2011.

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

HM TREASURY

Budget 2011

The Chancellor, George Osborne, made his Budget Statement to the House of Commons on 23 March 2011. It was the second Budget of the Coalition Government since it came to power in May 2010.

Given the number of changes to pensions taxation since Labour's announcement of proposed restrictions to pensions tax relief in 2009, it was perhaps unsurprising that occupational pensions did not feature prominently this time round.

Key points for pensions emerging from the latest budget include proposals to:

- abolish contracting-out for all schemes (although the cessation date for DB contracting-out has yet to be confirmed);
- put in place measures for increasing State Pension Age in line with improvements in life expectancy;
- make "disguised remuneration" (which will include benefits under EFRBS) subject to income tax. Disguised remuneration is described as "third party arrangements, commonly involving trusts and other vehicles, [used] to avoid, reduce, or defer liabilities to income tax on rewards of an employment or to avoid restrictions on pensions tax relief";
- consult on limiting the amount of tax relief available to employers making asset-backed contributions to DB schemes so that tax relief "accurately reflects the increase in fair value of pension plan assets while maintaining flexibility for employers and schemes".

Other than these proposed measures, there is nothing new for occupational pension schemes. However, we await the publication of the Finance Bill on 31 March 2011. It is hoped that the Bill will address a number of concerns which have been raised by the pensions industry in relation to the reduction of the Annual Allowance to £50,000 (which applies from the tax year 2011/12), since the publication of the draft clauses for the Bill in December 2010.

For more information, please see the following:

- Sackers Extra Alert: To the Budget 2011 ... and beyond! (dated 24 March 2011);
- HM Treasury Budget documents;
- BIS Press Release;
- NAPF reaction to the Budget.

NATIONAL EMPLOYMENT SAVINGS TRUST

NEST sets out investment approach

NEST is the new low cost pension scheme which any employer will be able to use to meet new legal duties of automatic enrolment which will start to apply from October 2012. It will operate as a trust-based occupational pension scheme run by NEST Corporation, a trustee body.

On 25 March 2011, NEST Trustee Members set out the investment approach for NEST and published their first Statement of Investment Principles.

NEST members will be enrolled into one of over 40 Retirement Date Funds which targets the year NEST expects members to take their money out of NEST. In addition to the NEST Retirement Date Funds, NEST will provide a range of other fund choices:

- NEST's Higher Risk Fund will target high returns through taking more investment risk;
- NEST's Lower Growth Fund will take very little investment risk but may not protect against inflation over the long term;
- NEST's Ethical Fund will have similar investment objectives as the NEST Retirement Date Funds but will invest in companies that meet ethical criteria, as well as gilts and our liquidity fund. The fund may well be more volatile than a Retirement Date Fund over the longer term but we will look to manage risk throughout a member's savings career;
- NEST's Sharia Fund will only invest in companies that are compliant with Sharia principles; and
- NEST's Pre-retirement Fund is for those members who, in the early years of the scheme, may want to buy a retirement income with their pot rather than target a cash lump sum.

NEST Press Release

NEST investment approach: Background documents