

**THE PENSIONS REGULATOR (MISCELLANEOUS AMENDMENT) REGULATIONS 2009
RESPONSE TO CONSULTATION ON DRAFT REGULATIONS**

The comments set out below form the formal response (“Response”) of Sacker & Partners LLP (“Sackers”) to the consultation by the Department for Work and Pensions (DWP) on the Pensions Regulator (Miscellaneous Amendment) Regulations 2009 (“the Draft Regulations”) which was published on 15 December 2008 (“the Consultation”).

Sackers is a firm of solicitors specialising in pensions law. The views expressed in this Response have been collated following discussions with a representative group of the firm’s solicitors.

General Comment

1. We note that the aim of this Consultation is to amend the statutory period that applies to the use of financial support directions (FSDs) and also to simplify the framework of notifiable events introduced by the Pension Regulator (TPR) under the Pensions Act 2004. We welcome these practical developments and in this Response set out some comments on the proposed Draft Regulations.

Extension of the “look back” period for financial support directions

2. We agree that, in practice, the process leading up to the date on which an FSD is issued can be complex. Based on our own experience, in circumstances where an event has taken place which severs the association and connection of a potential target person with a scheme employer, being able to complete the process within the existing 12 month look back period has been a real challenge for all concerned.
3. We consider that it is necessary to achieve a balance between what is justifiable and proportionate, both in terms of the time needed by TPR to investigate whether an employer is “insufficiently resourced” or is a “service company” and whether it is reasonable in the circumstances to impose an FSD, and for the recipient(s) of any

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Solicitors specialising in pensions law^S

29 Ludgate Hill, London EC4M 7NX Tel 020 7329 6699 Fax 020 7248 0552 DX 63 LDE enquiries@sackers.com www.sackers.com

Members: IM Pittaway, MB Greenlees, JSD Seres, J Berman, CP Lester, NJ Couldrey, CB Close, FM Franklin, PE Sibbit, PJ Docking, SJ Tier, EC Hayes, M Berry

P Phillips, KH Dandy, F Dickson, CV Carey, AJ Cribbs, HL Ball, JE Brown, PR Murphy, CR Altman, I Cormican, AD Bradshaw, D Saunders, RP Simmons

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warning notice to be able to make representations, including the opportunity to request an oral hearing before the Determinations Panel.

4. The use of a deadline which will apply in all cases provides certainty, and we consider the extension of the look back period to 24 months to be a reasonable period within which to complete the look back process and which would achieve the balance referred to in paragraph 3 above.
5. In terms of the staged increase of the look back period to 24 months, while at first sight an immediate increase would appear easier to manage than an increase in the time limit over the course of twelve months, we recognise that by implementing the new time limit over a transitional period, those persons who are currently outside the existing look back period will not be brought within it retrospectively. In our view, this is a fair and proportionate approach.

Removal of three notifiable events

6. We welcome deregulation and the removal of burdens from schemes and employers where circumstances permit. We therefore agree with the proposal to delete the notifiable events relating to two or more changes in key scheme posts within the previous twelve months, any change in the employer's credit rating (or the employer ceasing to have a credit rating) and two or more changes in key employer posts within the previous twelve months, if TPR's experience is that these events do not serve the purpose they were designed for.

Sacker & Partners LLP
6 February 2009