

## The Quarterly March 2010

Highlighting significant developments in pensions law, covering key areas such as pensions reform, regulatory developments, new legislation and cases.





# The Quarterly March 2010

---

## In this issue

### Pensions Reform

Pre-Budget Report	1
National Employment Savings Trust	1
Consultations on new legislation	2

### Legislation

Financial Assistance Scheme	4
Trivial commutation payments	4

### Regulatory

DWP	5
EHRC	5
HMRC	5
PPF	6
TPR	7

### Cases

<b>High Court:</b> HR Trustees Ltd v German and International Management Group (UK) Ltd	8
<b>High Court:</b> Cemex UK Marine Ltd v MNOPF Trustees Ltd	8
<b>High Court:</b> Arjo Wiggins Limited v Henry Thomas Ralph	9

### In the pipeline

---

#### Abbreviations commonly used in the Quarterly:

**Alert/News:** Sackers Extra publications (available from the client area of our website or your usual contact)

**DB:** Defined benefit

**DC:** Defined contribution

**DWP:** Department for Work and Pensions

**EHRC:** Equality and Human Rights Commission

**FAS:** Financial Assistance Scheme

**GMP:** Guaranteed Minimum Pension

**HMRC:** HM Revenue & Customs

**NEST:** National Employment Savings Trust

**NICs:** National Insurance Contributions

**NMPA:** Normal Minimum Pension Age

**PBR:** Pre-Budget Report

**PADA:** Personal Accounts Delivery Authority

**PPF:** Pension Protection Fund

**TKU:** Trustee knowledge and understanding

**TPR:** The Pensions Regulator



# Pensions Reform

## Pre-Budget Report

### Employer contributions to count as income

#### Tax relief on high earners restricted from 2011

In the 2009 Budget, the Chancellor announced that, from April 2011, pensions tax relief will be restricted for individuals with an overall income of £150,000 or more. Relief will be tapered away so that for those earning over £180,000 it will be worth 20% - the same as for a basic rate tax payer.

Delivered on 9 December 2009, the PBR made a number of new announcements on the proposed pensions tax relief restriction.

Significantly, in assessing whether a person has hit the £150,000 gross income threshold, employer contributions to a pension scheme will count as income. However, there will be an income floor on the tax relief restriction, so that individuals with an income of less than £130,000 (excluding employer pension contributions) will not be affected.

A formal consultation on the 2011 changes was published alongside the PBR.

### Transitional provisions extended

#### Extension of transitional anti-avoidance measures<sup>1</sup>

Transitional (anti-forestalling) measures were introduced from 22 April 2009 (the Budget date) to prevent affected individuals from making significant additional contributions in the run-up to 2011. The transitional measures apply where individuals with an income of £150,000 or more change the pattern of their normal, regular, ongoing pension savings. Where this is the case and pension savings exceed a special annual allowance of £20,000 (or up to £30,000 for those who have paid "infrequent money purchase contributions"), a tax charge will apply.

The PBR announced an extension to these transitional provisions. From 9 December 2009, individuals with an income of £130,000 or more will also now be caught. This move is designed to bring the transitional provisions into alignment with the 2011 proposals.

### NICs to increase

#### National Insurance Contributions

The PBR also announced a further increase in NICs of 0.5%. This is in addition to the increase announced in the 2009 Budget, meaning that the overall rate will increase to 12% in April 2011. Employers' NICs will also increase to 13.8%, potentially making salary sacrifice arrangements more attractive.

## National Employment Savings Trust

### Personal Accounts become NEST

#### NEST branding launched

In January 2010, PADA revealed that the new national workplace pension scheme, known until now by its working title of Personal Accounts, has been re-branded as "NEST".

Employers will be able to use the NEST from 2012, when they will have a duty to enrol "eligible jobholders" automatically into a qualifying pension arrangement. A small number of employers will enter the NEST in 2011, to enable testing of the scheme and its systems before the scheme's formal launch in 2012, when the automatic enrolment requirement will start to be phased in.

The Government's latest response to consultation<sup>2</sup> confirms what was hinted at in the PBR, that the period over which employer contributions are being phased in has been extended to October 2017.

PADA has also revealed that the Chair Designate of NEST is Lawrence Churchill, currently the Chairman of the PPF.

<sup>1</sup> For more information, see our Alert: "Pensions and the Pre-Budget Report" dated 11 December 2009

<sup>2</sup> [www.dwp.gov.uk/docs/wpr-comp-pict-govt-res.pdf](http://www.dwp.gov.uk/docs/wpr-comp-pict-govt-res.pdf)

## Pension Reform (continued)

---

Certification requirements to be revised

### Employer Compliance

Regulations relating to various aspects of the employer compliance regime have been published. Significantly, in the light of responses to the DWP's autumn 2009 consultation, the regulations and guidance on certification (under which employers with DC schemes will be able to certify that they meet the "quality requirement" for an automatic enrolment vehicle), have been withdrawn. These will be considered further by the DWP.

Broad support for NEST investment proposals

### Investment consultation findings published

Finally, PADA has published the key findings<sup>3</sup> from its consultation on the discussion paper: "Building Personal Accounts: Designing an investment approach". These findings indicate that, overall, stakeholders understood and supported PADA's objective to create a low charge, simple scheme, and agreed that target date funds are an effective mechanism for ensuring that individuals' investments are managed appropriately. (Such funds are akin to lifestyle funds, but members are placed into a fund corresponding to their expected retirement date and savings are switched from higher to lower risk assets automatically by the fund, rather than by the individual.)

PADA will now undertake further research and analysis to address some of the issues raised.

## Consultations on new legislation

Electronic communications to become default practice for pension schemes

### Pension Scheme Disclosure

Back in July 2007, the Deregulatory Review<sup>4</sup> identified disclosure as an area which could lead the way in terms of a principles-based approach to legislation, so as to create a "sensible and straightforward regulatory framework".

Subsequently, in March 2009, the DWP issued a consultation on proposals to simplify the requirements on pension schemes to disclose information to members and other beneficiaries. The consultation proposed a single overarching disclosure principle, complemented by specific disclosure requirements where required for particular circumstances. It also suggested that the fixed time limits for providing information currently set out in legislation could be replaced by "reasonable periods".

It is clear from the recently published response to the disclosure consultation that a certain degree of prescription, together with clearly understood timescales, were generally welcomed as providing certainty for members, trustees and advisers alike. The DWP has therefore decided not to pursue its original proposals. It will, however, formalise the use of email and websites for disseminating scheme information. Under draft regulations which are generally intended to come into force on 1 October 2010, schemes will be able to use electronic means as their default communication method, although members will be able to opt out and continue receiving paper copies. Among other things, the draft regulations also:

- reduce the maximum period within which new members of an occupational pension scheme must be provided with basic information about the scheme, from two months to one, to tie in with the timescales that will apply for automatic enrolment into qualifying workplace pension schemes from 2012; and
- change the information requirements for statutory money purchase illustrations, allowing schemes to produce shorter, more straightforward statements.

<sup>3</sup> [www.padeliveryauthority.org.uk/documents/Investment\\_Consultation\\_Nov2009.pdf](http://www.padeliveryauthority.org.uk/documents/Investment_Consultation_Nov2009.pdf)

<sup>4</sup> Chris Lewin and Ed Sweeney (July 2007) Deregulatory Review of Private Pensions: An independent report to the DWP ([www.dwp.gov.uk/docs/reviewpaperjuly2007.pdf](http://www.dwp.gov.uk/docs/reviewpaperjuly2007.pdf))

## Pension Reform (continued)

---

### Internal controls guidance to be updated

#### Internal controls

TPR is consulting on revisions to its internal controls guidance. The updated guidance (which is not intended to be exhaustive) identifies seven areas of risk which need improvement and which should be included in trustees' own assessment of risk, and subsequent internal controls framework:

- a lack of knowledge and understanding;
- conflicts of interest;
- ineffective relations with advisers;
- poor record-keeping;
- deterioration in the employer's covenant;
- investment risk; and
- ineffective retirement processes.

The revised guidance is primarily aimed at trustees of smaller schemes who, in TPR's view, are most in need of additional support, specifically in relation to risk management.

The consultation closes on 1 March 2010.

### Review of registration conditions

#### Independent trustee register

TPR is required by law to compile and maintain a register of independent trustees. TPR uses the register to appoint independent trustees to schemes, usually to ensure that the scheme is properly administered and that members' benefits are protected when the employer is insolvent.

TPR is now reviewing the way in which it assesses the conditions for joining and remaining on the register. It is proposing a number of changes to the criteria it uses to assess whether applicants "have sufficient relevant experience, sound administrative and accounting procedures, and adequate indemnity insurance cover".

The consultation closes on 12 March 2010.



# Legislation

## Financial Assistance Scheme

The Government has laid the final batch of FAS amending regulations before Parliament and is consulting on two sets of draft guidance.

FAS enhancements reach final phase

### Final Regulations

These amending regulations are intended to deliver the remaining changes to the FAS which were first announced back in December 2007. Among other things, they permit the funding of an enhanced level of FAS payments to be achieved partly through the transfer of pension scheme assets to Government. They also enable payments to be made to members, similar to those which scheme trustees could make (such as tax-free lump sums on retirement).

GMP benefits to be equalised for FAS purposes

### GMP equalisation

The DWP is consulting on draft guidance<sup>5</sup> as to how schemes which transfer to Government can provide data in a way that will ensure that FAS payments are calculated on an equalised basis, in particular in relation to GMPs.<sup>6</sup>

In a statement relating to the consultation, the Pensions Minister, Angela Eagle, noted that “where a scheme member has accrued entitlement to a guaranteed minimum pension after May 1990, European law requires that any inequality in scheme rules which results from the legislative provisions governing GMPs should be removed, whether or not a person can show that a comparator exists”. She also said that the Government intends to legislate to deal with this issue.

However, while the consultation focuses on the equalisation of GMPs in the FAS context, it is currently unclear whether the Minister’s statement is intended to suggest that the Government is contemplating legislating more generally.

The second consultation concerns draft guidance in relation to the valuation of assets and liabilities of transferring schemes.

## Trivial commutation payments

Inconsistency between HMRC and DWP regulations

### GMP oversight

Both HMRC and the DWP introduced regulations from 1 December 2009 to permit new categories of trivial commutation payments.<sup>7</sup> The DWP’s intention had been to allow GMPs to be taken as a lump sum if they qualified as an authorised payment under the new trivial commutation provisions. But due to an oversight, the DWP regulations do not in fact permit this.

The DWP intends to correct this provision as part of a package of miscellaneous amendment regulations planned for introduction in April 2010. We understand that although the proposed April 2010 change is not expected to be retrospective to 1 December 2009, any GMP which is commuted for triviality between that date and the date the amending regulations come into force, will not attract a tax charge.

<sup>5</sup> [www.dwp.gov.uk/consultations/2010/fas-transfer-assets-to-gov.shtml](http://www.dwp.gov.uk/consultations/2010/fas-transfer-assets-to-gov.shtml)

<sup>6</sup> This follows the publication of the PPF’s recent decision on how it intends to equalise compensation between men and women, to address inequalities arising from their GMP entitlements. For more information, see our Alert: “[PPF approves GMP equalisation solution](#)” dated 5 November 2009

<sup>7</sup> Please see our Alert: “[Trivial Commutation Regulations Published!](#)” dated 18 May 2009



# Regulatory

## Department for Work and Pensions

### DWP drops flexible retirement proposals

#### Update on flexible retirement

Following an initial consultation in October 2007 on “Flexible Retirement and Pension Provision”, in December 2008<sup>8</sup> the DWP proposed two alternative sets of draft regulations under which certain (very limited) flexible retirement practices would have been permitted, without the need to objectively justify age discrimination on a scheme-by-scheme basis. However, the DWP has now withdrawn these proposals because evidence submitted during the consultation process indicates that “flexible retirement arrangements have been successfully set up within the current framework”.

But as the DWP considers that “there remains significant uncertainty” around the interaction between the age discrimination legislation and flexible retirement practices generally, it has said that it will “consider the prospects for further general guidance on occupational pension schemes and age discrimination” (although as yet, it has given no indication of when it might do so).

## Equality and Human Rights Commission

### Tackling the challenges of an ageing workforce

#### Proposals to address ageing workforce

During 2010, the DWP will review the so-called default retirement age of 65<sup>9</sup> currently set out in regulations.

The DWP called for evidence in October 2009 from businesses and individuals on their experiences relating to the use of retirement ages to feed into the review. Responses needed to be submitted by 1 February 2010.

The EHRC has also recently published proposals<sup>10</sup> aimed at bringing about “fundamental changes to employment policies to open up more work opportunities to older Britons and address the challenges of an ageing workforce”. These include: abolishing the default retirement age, extending the right to request flexible working for all, overhauling recruitment practices, preventing discrimination and improving training and development.

## HM Revenue & Customs

### NMPA increases to age 55 from 6 April 2010

#### Change to Normal Minimum Pension Age: Practical issues explained

NMPA is the earliest age at which a member’s pension benefits can be taken under a registered pension scheme without higher tax charges applying. In general, NMPA will increase from age 50 to 55 from 6 April 2010.

In its Pension Schemes Newsletter 38, HMRC published guidance on practical issues arising from the change in NMPA and, in particular, its approach to benefits coming into payment around 6 April 2010.<sup>11</sup>

Under the Finance Act 2004, a pension cannot generally be “paid” before a member reaches NMPA if it is to be treated as an authorised payment for tax purposes. HMRC has confirmed that the critical point for determining whether or not a pension is paid is the date on which a member becomes “entitled” to the benefit. This will be when a member first has an actual (rather than a prospective)

<sup>8</sup> Please see our Alert: “Flexible Retirement: What the Dickens?” dated 22 December 2008

<sup>9</sup> Please see our Alert: “Default retirement age of 65 - here today gone tomorrow?” dated 30 September 2009

<sup>10</sup> [www.equalityhumanrights.com/media-centre/fundamental-changes-to-employment-policies-proposed-to-benefit-older-workers/](http://www.equalityhumanrights.com/media-centre/fundamental-changes-to-employment-policies-proposed-to-benefit-older-workers/)

<sup>11</sup> For more information, see our Alert: “Changes to Minimum Pension Age: HMRC guidance” dated 18 December 2008

## Regulatory (continued)

---

right to payment of a pension. HMRC regards an actual right as being when a member has “the right to a benefit without having to fulfil any further conditions or take any further actions”. Whichever NMPA applies at that point (whether age 50 or 55) is then effectively frozen.

In practice, this means that a member who, before 6 April 2010, reaches NMPA of 50 and takes all steps needed under the scheme rules to bring their benefits into payment, should still retain the right to receive those benefits before age 55 even if they are not physically put into payment until after the change in NMPA.

HMRC has also published guidance<sup>12</sup> for employers and pension scheme administrators on this issue, which includes some practical questions and answers for members who may be affected.

### Confirmation of notional earnings cap

#### Notional Earnings Cap for 2010/11

HMRC has confirmed that the notional earnings cap for 2010/11 will be £123,600.

This is the last year for which HMRC will publish a notional earnings cap. Schemes needing to know what the earnings cap would have been for tax years after 2010/11 will be able to calculate this using the method set out in section 590C of the Income and Corporation Taxes Act 1998 (as it was in force immediately before 6 April 2006).

## Pension Protection Fund

### New standard form agreements

#### Contingent Assets

Alongside the final levy determination for 2010/11 and Pension Protection Levy Policy Statement<sup>13</sup> which were published in December 2009, the PPF published final versions of its revised, standard form, contingent asset agreements, together with updated guidance.

The new standard form documents will need to be used by those wishing to put new contingent assets in place for the 2010/2011 levy year (but are not required for existing agreements which are being re-certified).

The guidance will be of use to those schemes seeking to re-certify existing contingent assets, as well as to parties wishing to put in place new contingent asset arrangements.

### Deficit reduction deadlines

#### 2010 Deadlines

For the 2010/2011 levy year, the following deadlines apply for the submission of information used in the levy calculation:

- certification/re-certification of contingent assets: 5pm on 31 March 2010;
- deficit reduction contributions: 5pm on 7 April 2010;
- notification of full block transfers that have taken place up to and including 31 March 2010: 5pm on 7 April 2010; and
- final certification of full block transfers (following completion of a transfer): 5pm on 30 June 2010.

### Increase of Compensation Cap

#### PPF Compensation Cap

The PPF compensation cap will increase to £33,054.09 (from £31,936.32) from 1 April 2010.

This means that when applying the new compensation cap to members whose PPF entitlement is restricted to 90% of benefits (generally people below their scheme's normal retirement age at the time a scheme starts being assessed for possible entry into the PPF), the maximum level of compensation payable to an individual at age 65 will be £29,748.68.

<sup>12</sup> [www.hmrc.gov.uk/pensionschemes/min-pen-age.pdf](http://www.hmrc.gov.uk/pensionschemes/min-pen-age.pdf)

<sup>13</sup> [www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/1011\\_levy\\_policy\\_statement.pdf](http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/1011_levy_policy_statement.pdf)



## Regulatory (continued)

---

### The Pensions Regulator

Overall TKU standard remains the same

#### TKU: Revised code of practice in force

TPR consulted in late 2008 on amendments to its code of practice on TKU and accompanying scope guidance. The revised code came into force on 26 November 2009.<sup>14</sup>

The overall TKU standard remains the same - trustees do not need to be experts and should take advice, where appropriate, from professional advisers. But the bar has been raised in a couple of areas. Every trustee is now required "to read their documentation thoroughly" (the original guidance merely stated that they should know essential elements of the trust deed and rules). Moreover, TPR's Trustee toolkit is now required study for new trustees, unless they can find a suitable alternative training programme.

TPR seeks to improve management and administration of pension schemes

#### Scheme governance campaign

Alongside its 2009 governance survey,<sup>15</sup> TPR has launched a campaign aimed at encouraging good governance and administration, as well as better management of pension scheme risks.

It has also published a statement<sup>16</sup> making it clear that trustees who are responsible for running pension schemes need to make sure that:

- they have the right skills and they get the right people to help them run their pension scheme; and
- they have the right processes in place to manage scheme risks.

Increase in average length of recovery plans

#### 2009 Recovery Plan report

TPR published the latest edition of its annual analysis of recovery plans from DB and hybrid pension schemes in November 2009. The review is of particular interest this year as it provides an overview of the first full triennial cycle of the new scheme funding regime (covering effective valuation dates from 22 September 2005 to 21 September 2008).

Some of the report's key findings are that:

- there has not been a material increase in schemes triggering TPR's scrutiny of their technical provisions (funding targets);
- there has been an increase in both the length of recovery plans and back-end loading of payments, with the average length of a recovery plan up from 6.1 to 8.3 years;
- there has been greater prudence in the selection of mortality assumptions, in the light of evidence of increasing longevity and TPR's guidance; and
- there has been an overall reduction in the number of clearance applications in the financial year 2008/09 from the previous year.

As TPR notes, the recovery plans covered by the report were agreed "in more turbulent economic times" than earlier plans, but the full impact of the recession will only become clear in due course.

TPR to strengthen record keeping regulation

#### Record-keeping consultation

TPR is consulting on proposals for regulating standards of member data.<sup>17</sup>

In early 2009 (following consultation the previous year), TPR published "good practice" guidance for measuring the presence of certain elements of member data. However, having found progress on take-up and results to be limited, TPR now plans to introduce a strengthened approach to regulating this area of administration. Its proposals include wider promotion of the guidance and a review of its record-keeping risk parameters.

The consultation closes on 27 April 2010.

<sup>14</sup> For more information, see our Alert: "Lessons in TKU dated" 7 December 2009

<sup>15</sup> [www.thepensionsregulator.gov.uk/pdf/governance-survey-report2009.pdf](http://www.thepensionsregulator.gov.uk/pdf/governance-survey-report2009.pdf)

<sup>16</sup> [www.thepensionsregulator.gov.uk/pdf/governance-statement-Nov2009.pdf](http://www.thepensionsregulator.gov.uk/pdf/governance-statement-Nov2009.pdf)

<sup>17</sup> [www.thepensionsregulator.gov.uk/pdf/record-keeping-con-doc-2010.pdf](http://www.thepensionsregulator.gov.uk/pdf/record-keeping-con-doc-2010.pdf)



# Cases

## High Court

Severing of final salary link found to be invalid

### HR Trustees Ltd v German and International Management Group (UK) Ltd

Members of the IMG Pension Plan (the Plan) successfully challenged the breaking of the link between their benefits under the Plan and their ultimate final salaries with that employer, following the purported conversion of the Plan from DB to DC.

#### Background

The Plan was established as a DB pension scheme by definitive deed in 1977, with rules being adopted in 1981. In a bid to save costs and limit volatility, the principal employer (who was also the trustee at that time), sought to convert the Plan to DC with effect from 1 January 1992.

It was intended that following conversion, members' DC pots would be credited with a cash amount, actuarially determined as the conversion value of their DB benefits and a top-up of special contributions by way of underpin in respect of past service prior to 1 January 1992.

The court had to consider a number of complex questions in relation to the validity of the conversion from DB to DC.

#### Decision

On the facts of the case, the court found that although the employer was entitled to change the basis of the scheme from DB to DC, the removal of the final salary link was invalid. This was because the change made in the amending deed was not permitted under the Plan rules.

The 1977 definitive deed contained a restriction in the power of amendment, which prevented changes to the Plan which had "the effect of reducing the value of benefits secured by contributions already made". The purpose of this restriction was "to protect the interests of members against amendments to the Plan which might prejudice those interests". Its existence also invalidated the replacement of this provision by a less restrictive amendment power in the 1981 rules.

Although it was argued by the company that the change had been achieved contractually, the court found that this was not the case, as the basic requirements for a contract had not been met. Specifically, the change had not been "within the contemplation" of the members when the contract was supposed to have been made, and the members had not been provided with sufficient information to enable them to give their informed consent.

In addition, compromise agreements under which some members attempted to give up rights to continued DB pension entitlements were held to be unenforceable under section 91 of the Pensions Act 1995 (which prevents members surrendering their accrued rights, except in specific circumstances).

This decision may yet be appealed.

Court considers meaning of employment cessation event

### Cemex UK Marine Ltd v MNOFF Trustees Ltd

The High Court has ruled on the meaning of "employment cessation event" (ECE) in relation to a multi-employer DB pension scheme, on the basis of the employer debt regulations in place before April 2008.

#### Background

The Merchant Navy Officers Pension Fund (MNOFF) is an occupational DB scheme which is generally closed to new members, although the trustees have a discretion to admit new members.

Cemex always allowed its eligible employees to join the MNOFF. It also provides a separate pension scheme which some potential members of MNOFF elected to join instead.

## Cases (continued)

---

Cemex ceased to have any employees who were active members of the scheme. However, it continued to employ a deferred member of the scheme and employed four officers who were eligible for, but chose not to join, the scheme.

The judge was asked to determine whether an ECE had occurred when Cemex ceased to employ active members, in the light of ambiguity in the employer debt regulations at the relevant time which did not refer to actives but simply to the date on which an employer “ceases to employ members in the category to which the scheme relates”.

### **Decision**

The court held there had not been an ECE because, as at the date in question, Cemex continued to employ a deferred member and other employees who were eligible to join the scheme (because they were employees in the “category of employment to which the scheme relates” for this purpose).

While this decision will be of interest to schemes in which an employer debt was, or may have been, triggered before 6 April 2008, whether or not an ECE has arisen will depend on the facts of each case.

The ambiguity in the employer debt regulations has now been resolved, as the regulations were amended with effect from 6 April 2008 so that it is clear that a debt is triggered when an employer no longer employs active members.

Pensions Ombudsman  
must abide by the  
same time limits as  
the courts

### **Arjo Wiggins Limited v Henry Thomas Ralph**

The High Court has ruled that the Pensions Ombudsman must abide by the same time limits as those imposed on the courts.

### **Background**

R had transferred his benefits to an insurance company shortly before leaving employment in 1986, on the basis that greater benefits were predicted from the insurer than could be expected from his employer’s scheme.

R complained to his former employer in April 2006 and then in July 2007 to the Pensions Ombudsman. He claimed that he had been given negligent advice in 1986 by his employer’s pensions department and that if he had been given proper advice, he would not have transferred his benefits out. The PO upheld the complaint and directed the employer to pay the cost of restoring R to the Scheme or of providing equivalent benefits.

The employer appealed successfully, as R’s claim had been out of time. It had been brought outside the three-year time limit for making complaints and referring disputes set out in the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996, and would also have been time barred under the Limitation Act 1980 if it had been made through the courts.

The judge distinguished between “pure maladministration” (such as neglect or delay, which may occur without infringement of an individual’s legal rights), which only the PO has power to investigate, and a breach of legal rights, where the PO and the courts share jurisdiction.

Although the judge considered that the PO has power to investigate and determine a complaint that would be dismissed on the ground of limitation if brought in court, this did not constitute statutory authority to refuse to give effect to a valid limitation defence. He noted that the fact that the PO must give effect to any limitation defence “will be a powerful factor in the future exercise of any discretion” in this area.



# In the pipeline

---

6 April 2010 Normal minimum pension age increases from 50 to 55

---

Following 2010 Budget Finance Bill 2010: implementation of additional “anti-forestalling” measures restricting pensions tax relief

---

1 October 2010 Disclosure of information: Subject to consultation, regulations will formalise the use of electronic communications between pension schemes and their members

---

6 April 2011 Full pensions tax relief restrictions implemented

---

1 October 2012 Automatic enrolment: start of phasing-in of employer duty to enrol jobholders automatically into NEST or a qualifying pension scheme

---

Response awaited Employer Debt: A DWP consultation in the Autumn of 2009 proposed two easements to the employer debt regulations for use on corporate restructurings

---

Awaited Bridge Trustees v Yates: Appeal judgment outstanding (case heard June 2009)

---

Awaited Pilots' National Pension Fund case: Judgement outstanding (case heard February 2010)

---

Sacker & Partners LLP  
29 Ludgate Hill  
London EC4M 7NX  
T +44 (0)20 7329 6699  
F +44 (0)20 7248 0552  
E [enquiries@sackers.com](mailto:enquiries@sackers.com)  
[www.sackers.com](http://www.sackers.com)

**Sackers**

Nothing stated in this document should be treated as an authoritative statement of the law on any particular aspect or in any specific case. Action should not be taken on the basis of this document alone. For specific advice on any particular aspect you should consult the usual Solicitor with whom you deal. © Sacker & Partners LLP February 2010