

Pensions law – the week in review

9 November 2009

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1 LEGISLATION

1.1 The Occupational and Personal Pension Schemes (Authorised Payments) Amendment Regulations 2009

In August 2009, the DWP published a consultation¹ on draft regulations which proposed minor amendments in the light of changes made earlier this year to the tax rules for registered pension schemes under the Registered Pension Schemes (Authorised Payments) Regulations 2009 (the Authorised Payments Regulations).² The consultation closed on 29 September 2009.

The Authorised Payments Regulations (which came into force on 1 June 2009) created additional categories of authorised payment, for example, by allowing the commutation of certain small benefits on or after 1 December 2009. These regulations are therefore aimed at ensuring that the administrative easement measures of the Authorised Payments regulations are reflected in DWP legislation.

The regulations were laid before Parliament today (9 November 2009) and will come into force on 1 December 2009.

The regulations and accompanying explanatory memorandum can be accessed by clicking on the links below:

http://www.opsi.gov.uk/si/si2009/pdf/uksi_20092930_en.pdf

http://www.opsi.gov.uk/si/si2009/em/uksiem_20092930_en.pdf

¹ Reported in 7 Days on 24 August 2009

² For more information, please see our Alert: Trivial Commutation Regulations Published! (dated 18 May 2009)

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2 ACCOUNTING STANDARDS

2.1 IASB and FASB commitment to improve International Financial Reporting Standards (IFRS)

At a joint meeting at the end of October 2009, the International Accounting Standards Board (IASB) and the Financial Accounting Standards Board (FASB) reaffirmed their commitment to improve both IFRS and US generally accepted accounting principles (US GAAP), and to bring about their convergence.

The Boards also agreed to intensify their efforts to complete the major joint projects which are described in their 2006 Memorandum of Understanding (MoU) (as updated in 2008). A joint statement issued by the IASB and FASB sets out their plans and milestone targets for completing these projects by the end of June 2011. These include:

- achieving a single set of high quality standards within the context of the Boards' respective independent standard-setting processes; and
- providing a high degree of accountability through appropriate due process, in respect of which the Boards intend to draw on expertise from investors, preparers, auditors, standard-setters, regulators and others around the world.

The IASB's press release and the joint statement can be accessed by clicking on the links below:

[IASB Press Release \(5 November 2009\)](#)

[IASB / FASB Joint Statement \(5 November 2009\)](#)

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3 ACTUARIAL PROFESSION

3.1 Groupe Consultatif Actuarial Européen: Report on avoiding pitfalls in retirement

The Pensions Committee of the Groupe Consultatif Actuarial Européen has produced a report entitled “Avoiding Pitfalls in Retirement: A Report on Defined Contribution Pensions”.

The report considers the risks posed by improving longevity, volatile investment markets and inflation uncertainty to individuals in a defined contribution scheme and argues that these risks can be mitigated by careful scheme design and product choice. It also notes that policymakers can help raise awareness of the risks and help members achieve maximum benefits by removing barriers to efficient design and product pricing.

The report can be accessed by clicking on the link below:

http://www.gcactuaries.org/documents/DC_Working_Group_Report_final_261009.pdf

**4 COMMITTEE OF EUROPEAN INSURANCE AND OCCUPATIONAL PENSION SUPERVISION
(CEIOPS)**

4.1 2009 Report on Market Developments

CEIOPS has published its 2009 Report on Market Developments, detailing developments in the field of cross-border occupational pension provision across the European Economic Area (EEA). This follows implementation by Member States of the Pensions Directive³.

The 2009 Report covers the year to June 2009, during which period 10 new cross-border schemes were reported. However, during the same period, four schemes which previously operated cross-border ceased to do so. The total number of schemes operating cross-border now stands at 76, up from 70 in 2008.

³ Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision

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The UK and Ireland continue to lead the way for pan-European pensions, with 72 such schemes between them.

The report can be accessed by clicking on the link below:

[CEIOPS 2009 Report on Market Developments](#)

4.2 CEIOPS publishes revised Protocol on cross-border cooperation

On 5 November 2009, CEIOPS published revised texts of the Budapest Protocol (the Protocol). The Protocol (which was originally adopted in 2006), provides a framework for cooperation between the national authorities in the EEA which are responsible for supervising cross-border pension schemes (Supervisors). In the UK, it is the Pensions Regulator (TPR) which has this responsibility.

Recent reviews have shown that the pensions Supervisors face a number of challenges, the primary difficulty being the use of different definitions across the various Member States, as to what constitutes cross-border pensions activity. Although the Supervisors do not have the power to resolve these issues, they have shown a “strong willingness” to cooperate. The revised Protocol therefore contains:

- amendments specifically designed to help the Supervisors in the process of cooperation;
- two new sections on cooperation in the handling of cross-border complaints from members and beneficiaries and where there has been outsourcing of functions; and
- further clarification of certain information requirements.

CEIOPS' press release and the revised protocol can be accessed by clicking on the links below:

<http://www.ceiops.eu/media/files/pressreleases/CEIOPS-Press-Release-revised-Budapest-Protocol-20091105.pdf>

<http://www.ceiops.eu/content/view/19/23/>

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5 DEPARTMENT FOR WORK AND PENSIONS (DWP)

5.1 DWP publication on pension reforms

The DWP has published a document entitled “Automatic saving: Changing workplace pensions”, in which it explains the background to, and key elements of, the 2012 pension reforms, including the introduction of automatic enrolment and a framework for a new scheme of “Personal Accounts”.

In this document, the DWP provides a broad overview of the reforms, explaining why change is needed, what the reforms do and where further information can be found. The DWP also notes, in respect of the recent consultation on the remaining regulations needed to implement and enforce the reforms⁴, that it “intends to finalise these regulations by Spring 2010, subject to the Parliamentary timetable”.

The DWP’s document can be accessed by clicking on the link below:

<http://www.dwp.gov.uk/docs/automatic-savings-changing-workplace-pensions-nov09.pdf>

6 HM REVENUE & CUSTOMS (HMRC)

6.1 Forthcoming changes to Pension Schemes Online

HMRC has published guidance for users of its Pension Schemes Online service, to inform them of improvements which it is making to this service from 23 November 2009.

HMRC’s guidance can be accessed by clicking on the link below:

<http://www.hmrc.gov.uk/pensionschemes/changes-pso-autumn.pdf>

⁴ DWP Consultation: Workplace Pension Reform - Completing the Picture. This consultation closed on 5 November 2009. Sackers’ response to the consultation is available from the client area of our website or from your usual Sackers contact

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6.2 Registered Pension Scheme Return (RPSR) reminders

On 2 November 2009, HMRC issued reminders to scheme administrators who had been issued with a notice to file a RPSR for 2008/09 but who had not yet filed their return.

These reminders relate to the RPSR which must be filed electronically and not the Self Assessment Return for trustees of registered pension schemes. (HMRC explains the differences between these forms in Newsletter 35.)

Further information and Newsletter 35 can be accessed by clicking on the links below:

<http://www.hmrc.gov.uk/pensionschemes/online/online-splash.htm>

<http://www.hmrc.gov.uk/pensionschemes/pen-newsletter35.htm>

7 PENSION PROTECTION FUND (PPF)

7.1 2011/12 Pension Protection Levy Consultation: Insolvency Risk

The PPF has today (9 November 2009) published proposals for the 2011/12 pension protection levy year which are designed to improve the way in which it assesses the insolvency risk for sponsoring employers of pension schemes that pay the levy.

Key changes outlined by the PPF include:

- Dun & Bradstreet (D&B) will collect accounts from the Charity Commission rather than relying on charities providing their own accounts;
- a new feature known as “nationwide” will be introduced for businesses with three or more branches in different UK regions, which will mean they are assessed as a national rather than a regional employer;

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- PPF compliant contingent assets will be excluded by D&B in their scores as they reflect the financial position of the pension scheme and not the employer;
- when measuring the failure score of a subsidiary whose parent company is at substantial risk of becoming insolvent, the score of the subsidiary will be that of the parent; and
- employers wishing to change their industry sector or geographical region will need to provide evidence to support that change.

The PPF notes that the proposals reflect industry feedback, and a review of methodology and insolvency probabilities carried out by D&B which continues to measure insolvency risk for the PPF.

The consultation will close on 14 December 2009. (A further consultation on the 2011/12 levy will be carried out in 2010, once the levy scaling factor is available for the 2011/12 determination. However the PPF has indicated that it expects no major policy changes.)

The PPF's press release and the consultation document can be accessed by clicking on the links below.

<http://www.pensionprotectionfund.org.uk/News/Pages/details.aspx?itemID=138>

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/insolvency_consultation_Nov09.pdf

7.2 Annual report for 2008/09 published

The PPF published its annual report and accounts for 2008/09 on 5 November 2009.

The report shows that there has been a rise in the number and value of pension schemes claiming on the PPF which has resulted in its deficit increasing from £517 million as at 31 March 2008 to £1.2 billion as at 31 March 2009.

Other statistics highlighted in the report show that by 31 March 2009:

- 30,372 members had transferred to the PPF, with 12,723 already receiving compensation;

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- 100 schemes had transferred to the PPF and a further 48 schemes had completed the assessment process by other means (such as scheme rescue or buyout);
- the PPF received £1.26 billion of assets from levy receipts and from transferring scheme assets;
- the PPF was responsible for overseeing schemes in PPF assessment with assets of £5.9 billion, and liabilities of £8.82 billion;
- the PPF's investment portfolio grew to £2.93 billion from £1.47 billion in 2007/08; and
- the PPF earned a return of 13.4% on its invested assets, including gains of £318 million from its portfolio of hedging instruments.

PPF Chairman, Lawrence Churchill, said that: "The economic downturn has highlighted how vital PPF protection has been. None of us would want to go back to an era where people lost their pension as well as their jobs. We expected that this year's claims would be larger than our levy so we were not surprised by these figures which have been impacted by market volatility and low interest rates."

The PPF's press release and the annual report can be accessed by clicking on the links below:

<http://www.pensionprotectionfund.org.uk/News/Pages/details.aspx?itemID=137>

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/ara_0809.pdf

7.3 PPF bulletin - Issue 2

The PPF has published the second edition of its bi-monthly electronic newsletter - the "PPF bulletin".

The Bulletin includes a round-up of recent PPF news, including brief updates on:

- the PPF's commitment to keep the pension protection levy stable for three years by confirming that the 2010/11 levy will remain at £700 million, indexed to wages (£720 million);

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- key PPF statistics;
- new appointments; and
- the recent publication of the PPF's solution to equalising benefits for GMPs.⁵

Issue 2 of the PPF Bulletin can be accessed by clicking on the link below:

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/ppf_bulletin_Nov2009.pdf

7.4 PPF publishes UK voting record

The PPF has also recently published details of its UK voting record for the period from 1 July to 30 September 2009.

During the period in question, the PPF voted in 441 resolutions at 32 company meetings. The PPF supported management in 93% of the votes cast, opposed management in 5% of cases and abstained on 2% of resolutions.

The PPF has published a summary of its voting record, in which it sets out details of its abstentions and oppositions.

The PPF's UK voting record can be accessed by clicking on the link below:

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/Voting_Q3_2009.pdf

⁵ For more information, please see our Alert: PPF approves GMP equalisation solution (dated 5 November 2009)

8 THE PENSIONS REGULATOR

8.1 TPR agrees Memorandum of Understanding with the PPF and the PBGC

On 4 November 2009, TPR, the PPF and the Pension Benefit Guaranty Corporation (PBGC) (a US lifeboat fund for occupational pension schemes, akin to the UK's PPF) signed a Memorandum of Understanding (MoU) intended to encourage and enable best practice in protecting benefits.

The MoU has been designed to enable the sharing of market intelligence, with a view to developing “shared understanding in an increasingly globalised market, reflecting the strict domestic controls which protect restricted information collected in the performance of regulatory functions.”

TPR Chairman, David Norgrove, said that TPR had “worked with the PBGC since the Pensions Regulator began in 2005. This MoU formalises the position and, through exchange of thinking and best practice, will help us in our efforts to protect members' benefits.”

TPR's press release and the MoU can be accessed by clicking on the links below:

<http://www.thepensionsregulator.gov.uk/whatsNew/pn09-15.aspx>

<http://www.thepensionsregulator.gov.uk/pdf/MoUTPR-PPF-PBGC.pdf>



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