

11 January 2010

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SO7

Abbreviations commonly used in 7 Days

DWP: Department for Work and Pensions
HMRC: HM Revenue & Customs

PADA: Personal Accounts Delivery Authority
PPF: Pension Protection Fund

LEGISLATION**The Occupational Pension Schemes (Levy Ceiling – Earnings Percentage Increase) Order 2010**

An Order has been laid before Parliament today which specifies the increase in the general level of earnings during the latest review period, for the purposes of uprating the PPF levy ceiling for the financial year beginning on 1 April 2010. The increase has therefore been set at 0.9%.

More information can be found in the [explanatory memorandum](#) which accompanies the Order.

Draft Occupational Pension Schemes (Levy Ceiling) Order 2010

Section 175 of the Pensions Act 2004 requires the PPF to set a levy for defined benefit occupational pension schemes (and the defined benefit 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.

As noted above, the levy ceiling has been uprated by affirmative Order by 0.9%, in line with the increase in the general level of earnings. Consequently, the [draft Levy Ceiling Order](#) specifies the levy ceiling figure to be imposed on the pension protection levy for the financial year beginning 1 April 2010 as £871,183,684.

More information can be found in the [explanatory memorandum](#) which accompanies the Order.

Draft Pension Protection Fund (Pension Compensation Cap) Order 2010

The draft [PPF Compensation Cap Order](#) for 2010 has also been published today. It provides for the level of the PPF compensation cap to be increased to £33,054.09 (up from £31,936.32) from 1 April 2010. This figure is based on a 3.5% increase in average earnings in the 2008/09 tax year.

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 £29,748.68.

More information can be found in the [explanatory memorandum](#) which accompanies the Order.

DEPARTMENT FOR WORK AND PENSIONS

Disclosure of Information: Response and further consultation

On 6 January 2010, the DWP published a [response](#) to its 2009 consultation on a possible approach for simplifying the requirements on pension schemes to disclose information to members and others. Alongside this response, it has issued a further consultation on draft regulations, setting out the Government's revised proposals.

2009 Consultation – response

Having been identified by the Deregulatory Review¹ as an area which could lead the way in terms of a principles-based approach to regulation, the DWP sought views as to how existing pensions disclosure legislation could be reformed.

The original consultation suggested a single overarching principle, which would be complemented by obligations for specific circumstances. It also proposed that the fixed time limits currently set out in the legislation would be replaced by “reasonable periods” and that legislation would finally recognise the ability of trustees and employers to deliver information electronically.

While the Government will facilitate electronic communications for pension schemes and their members, in the light of the responses received to the consultation it has decided not to pursue the majority of the original proposals.

Among the views expressed in the response, the DWP notes that:

- respondents considered that prescription has a number of advantages, for example, its universal nature benefits both members and practitioners and a single IT solution can be used across the board. However, they also felt that the level of prescription needs to be carefully managed and kept to the minimum necessary to achieve the policy intention; and
- there was no consensus over the use of “reasonable periods” to fulfil disclosure obligations. While many respondents were in favour, citing greater flexibility for schemes, others felt these would reduce “members’ rights to the provision of information in clearly understood timescales”. Existing time limits will therefore be retained.

2010 Consultation – proposals

In the light of the responses received to the original consultation, the draft regulations on which the DWP is now consulting amend various existing regulations. As drafted, they:

- permit greater use of electronic communications (including the use of electronic communications as a default method of communication), enabling schemes to issue documents by email or publish them on a website, and similarly for members to request information from schemes electronically;
- contain amendments to the requirements for statutory money purchase illustrations (SMPs), to enable the production of shorter, simpler SMPs;
- reduce the time limit for providing basic information about a scheme from two months to one month from October 2012, to align the general disclosure requirements with automatic enrolment into a qualifying scheme; and
- exempt the Personal Accounts scheme (now known as NEST - see further below) from the requirement to provide information to early leavers, on the basis that as

¹ Chris Lewin and Ed Sweeney (July 2007) Deregulatory Review of Private Pensions: An independent report to the DWP

NEST members will retain their membership of this scheme until they retire or die, “the issuance of ‘early leaver’ information might not be very helpful for members and potentially could give rise to confusion”.

It is proposed that the regulations will generally come into force from 1 October 2010.

Outside the scope of the present consultation, the DWP are to give further consideration as to what can be done towards bringing together, into a single set of regulations, disclosure requirements covering occupational, personal and stakeholder schemes.

The current consultation will close on 1 March 2010.

HM REVENUE & CUSTOMS

Pension Schemes Newsletter 39

HMRC has recently published [Pension Schemes Newsletter 39](#). This newsletter covers a number of issues, including:

- clarification of HMRC’s position on security and first charges - where as part of a member-directed pension scheme (investment-regulated pension schemes under scheduled 29A of the Finance Act 2004) making an authorised employer loan within section 179 of that Act, it has put in place the necessary legal first charge but over assets that are taxable property;
- compliance issues, including audits and tax relief fraud;
- self-assessment return forms SA970; and
- the pensions aspects of the 9 December 2009 Pre-Budget Report (PBR). This section makes reference to the consultation and technical note which were published alongside the PBR. For more information on this, see our Alert: [Pensions and the Pre-Budget Report](#).

PENSION PROTECTION FUND

Contingent assets guidance published

The PPF has published revised [guidance](#) on contingent assets. This is an updated version of the guidance which was first published in September 2006, to reflect the PPF Board’s approach to contingent asset arrangements for the levy year 2010/11.

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 using the standard PPF documentation.

The revised guidance follows the publication in December 2009 of the PPF’s final levy determination and policy statement for the 2010/11 levy year, together with revised standard form contingent asset documents.

PERSONAL ACCOUNTS DELIVERY AUTHORITY

NEST: New branding for Personal Accounts launched

PADA has unveiled the brand name for the new national workplace pension scheme. National Employment Savings Trust (NEST) will be the permanent name of this scheme, which employers will be able to use from 2012 when they have a duty to enrol employees automatically into a qualifying pension arrangement (this duty will be phased in). Until now, the scheme has been known by its working title - Personal Accounts.

So that the scheme and its systems can be fully tested before its formal launch in 2012, it is intended that a small number of employers will sign up to NEST in 2011.

From 2011, NEST will have its own website: www.nestpensions.org.uk, which will provide full details of the scheme. For the time being, information on the NEST brand can be found in the NEST section of the PADA website.

For more information on the NEST framework and the 2012 reforms, please see our newsletter The Road to 2012: Building the foundations for new pensions saving; NEST FAQs and PADA's Press Release.