Sackers extra

20 June 2011

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SO7

Abbreviations commonly used in 7 Days

Alert/News: Sackers Extra publications (available from the client area of our website or from your usual contact)
AA: Annual Allowance
DB: Defined benefit
DC: Defined contribution
DWP: Department for Work and Pensions
FSA: Financial Services Authority
HMRC: HM Revenue & Customs
HMT: HM Treasury
NEST: National Employment Savings Trust
PPF: Pension Protection Fund
TPR: The Pensions Regulator

LEGISLATION

Pensions Bill 2010-11: House of Commons research paper

Ahead of today's (20 June 2011) Second Reading debate of the Pensions Bill 2010-11, a research paper was published by the House of Commons library.

The main changes made by the Bill are to:

- accelerate the existing timetable for increasing the State Pension age to 66;
- amend the legislative framework requiring employers to enrol employees automatically into a qualifying pension scheme and make contributions to that scheme; and
- amend legislation providing for the indexation and revaluation of occupational pensions and payments from the PPF.

The research paper is circulated to MPs in order to provide background to the changes under consideration in the House of Commons debate.

We are monitoring the progress of this Bill and will provide further updates in due course.

Equitable Life: The Taxation of Equitable Life (Payments) Order 2011

We reported in 7 Days on 16 May 2011 on the publication of a paper on the design of the Equitable Life Payment Scheme (the Scheme). The paper includes details of the amount of payments that will be made under the Scheme and the expected timetable for receipt of those payments. The first payments from this Scheme are expected to be paid by the end of June 2011.

This Order provides that payments authorised by the Treasury to be paid from the Scheme are to be disregarded for the purposes of specified taxes or for the purpose of determining entitlement to child and working tax credits.

This means that payments authorised under the Scheme will not give rise to liability to capital gains tax, corporation tax or income tax. In relation to inheritance tax, the value of rights to, or interests in, an authorised payment will not be treated as part of the estate of a deceased person in cases where the payment is made in respect of a person who died before the payment is made.

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

DEPARTMENT FOR WORK AND PENSIONS

Consultation response on the use of CPI for private sector occupational pensions

On 16 June 2011, the Government published its response to a consultation on the switch from RPI to CPI for increases to pensions in payment and revaluation in deferment. The December 2010 consultation followed announcements last summer that, in future, CPI would be used as the statutory minimum for increases and revaluation in both public and private sector DB pension schemes.

Among the key points emerging from the consultation response:

- as widely anticipated, there will be no statutory override or modification power to make it easier for schemes with RPI written into their rules to make the switch to CPI;
- a statutory easement will make a CPI underpin unnecessary for schemes which use RPI for pensions in payment; and
- the Government is considering extending this easement to revaluation of pensions in deferment.

The response was issued just in time for the second reading of the Pensions Bill (see above) which includes wording to give effect to the required legislative changes.

DWP Press Release

The effect of uprating by CPI on occupational pension schemes

Shortly before publication of the consultation response on the switch from RPI to CPI for increases to pensions in payment and revaluation in deferment, the DWP published research which explores the effect of uprating by CPI on occupational pension schemes.

A survey was conducted among a sample of 200 private sector DB pension schemes, drawn from TPR's register of pension schemes. The aim of the research was to obtain information about schemes' existing rules in relation to indexation and revaluation and to ascertain whether schemes expected to make changes to their rules as a result of the Government's announcements concerning the switch. The survey also considered whether schemes have assessed the likely impact for them of the move to CPI.

The findings from the survey show that:

- the majority of schemes have an explicit link to RPI in their scheme rules for indexation;
- around half of schemes currently referencing RPI have the ability to change their inflation measure from RPI to CPI but many of these report that they are unlikely to do so;
- most schemes (particularly larger schemes) have sought advice and reviewed scheme literature since hearing about the changes; and
- the majority of schemes believe the funding position of their scheme will be more secure as a result of the decision to use CPI as the basis for setting the statutory minimum for indexation and revaluation.

This relatively small scale exercise was designed to obtain an early indication of the way in which DB schemes might respond to the changes.

DWP Press Release

Likely industry responses to the workplace pension reforms

Employers will be under a duty (to be phased in from October 2012), to enrol employees automatically into a qualifying workplace pension scheme.

The DWP's research report no. 753 presents findings from research which was carried out to examine likely industry responses to the workplace pension reforms. Among other things, the findings indicate that:

- there is general support for the recommendations from the review "Making Automatic Enrolment Work"[1];
- there are several major changes which are shaping the pensions market (including the recession, the competitive environment and the Retail Distribution Review) and the industry will respond to the changing market overall, rather than to the workplace pension reforms in isolation;
- providers expect automatic enrolment to lead to increased membership in existing schemes but expect newly enrolled savers to be unprofitable as they are likely to be the lowest paid; and
- there is a general expectation that NEST will have a substantial impact on provider charges, setting the "baseline" level".

Research summary

DWP Press Release

HM REVENUE & CUSTOMS

Pension Schemes Newsletter 47

HMRC has published its latest Pension Schemes Newsletter (No.47) which gives an update on a number of developments which are overseen by HMRC Pension Schemes Services.

These include:

- clarification of HMRC's interpretation of how the "pension input amount" should be worked out for DB arrangements, following the reduction in the AA to £50,000 from the tax year 2011/12. A number of worked examples are included to illustrate how the pension input amount should be applied in a range of circumstances;
- confirmation that trustees still have the opportunity to nominate, retrospectively, end dates for previous pension input periods (PIPs) until the Finance (No. 3) Bill 2010-11 receives Royal Assent; and
- confirmation that the election form for pension scheme members to apply for "fixed protection" from the new lifetime allowance will become available after both the Finance Bill receives Royal Assent and the associated regulations which prescribe the notification process come into force.

[1] For more information, please see our Alert: "NEST comes home to roost!" dated 28 October 2010

Consultation on Potential Debt Cap Changes for Finance Bill 2012

HMRC has published an informal consultation (in the form of a Technical Note) to explore issues which are suitable for inclusion in the 2012 Finance Bill. The Technical Note considers, among other things, how the current "debt cap rules" relate to arrangements to make cash contributions to pension schemes.

The debt cap rules were introduced in 2009 as a way of restricting the interest and other finance costs for which tax relief is given in the UK. This is achieved by comparing the costs incurred by UK group companies with those shown in the consolidated accounts of the worldwide group.

HMRC wishes to address the mismatch which arises under the current debt cap rules in relation to cash contributions to pension schemes. The Technical Note includes an example showing how this operates in practice.

The consultation is running in parallel to the joint HMRC/HMT consultation on employer asset-backed contributions which was published on 24 May 2011.

The consultation closes on 5 September 2011.

Employee's guide to minimum contributions

HMRC has published a revised version of its CA17 guidance: "Employee's guide to minimum contributions".

The guidance explains minimum contributions for employees who are members of an Appropriate Personal Pension (APP) or Appropriate Personal Pension Stakeholder Pensions (APPSP) instead of paying into the State Second Pension (S2P) or its forerunner the State Earnings Related Pension Scheme (SERPS).

The guidance has been updated to take account of changes to contracting-out, in particular the abolition of DC contracting-out from 6 April 2012.

Pensions Industry Business Update

National Insurance Services to Pension Industry (NISPI) has published the first issue of the NISPI Business Update (formerly the NISPI Newsletter).

The Update highlights some of NISPI's ongoing projects, including its collaboration with TPR to promote improvements in pension scheme administration with a view to enabling schemes to be run more effectively.

INTERNATIONAL ACCOUNTING STANDARDS BOARD

IAS19: Improvements to the accounting for post-employment benefits

On 16 June 2011, the IASB published an amended version of IAS19 Employee Benefits following the completion of its work to improve the accounting for pensions and other post-employment benefits.

The IASB notes that the amendments:

- eliminate an option to defer the recognition of gains and losses, known as the "corridor method", improving comparability and faithfulness of presentation;
- streamline the presentation of changes in assets and liabilities arising from DB schemes, including requiring re-measurements to be presented in other

comprehensive income (OCI), thereby separating those changes from changes that are generally perceived to be the result of an entity's day-to-day operations; and

- enhance the disclosure requirements for DB schemes, providing better information about the characteristics of DB schemes and the risks that entities are exposed to through participation in those arrangements.

These changes are designed to provide investors and other users of financial statements with a clearer picture of an entity's obligations which result from the provision of DB pension arrangements, as well as how those obligations will affect its financial position, financial performance and cash flow.

Project summary and feedback statement

IASB Press Release

NATIONAL EMPLOYMENT SAVINGS TRUST

Trustee Member appointments

NEST Corporation is the trustee body which is responsible for running the NEST scheme. It was set up in July 2010 as a non-departmental public body sponsored by the DWP.

NEST Corporation has today (20 June 2011) announced the appointment of Iraj Amiri, Sharon Darcy and Nigel Stanley as Trustee Members of NEST.

DWP Press Release

PUBLIC SECTOR PENSIONS

Pension reforms announced

In March 2011, Lord Hutton published his Final Report on the reform of public service pension schemes. Key proposals included a new career average (CARE) scheme for the future and a rise in normal pension age (NPA),

On 17 June 2011, in a speech to the Institute for Public Policy Research (IPPR), the Chief Secretary to the Treasury, Rt Hon Danny Alexander MP, set out in more detail the Government's position on the reform of public sector pensions.

Alexander argued that in reforming public sector pensions, the Government is "attempting to strike a fair and affordable balance between the legitimate interests of public service workers and the costs faced by other taxpayers. This is not an attack on public sector pensions, it is an attempt to protect them for the long term."

Reaction to the speech has been mixed. While unions are threatening strike action over the proposals, Lord Hutton is quoted as saying that "strikes and industrial action will not make these hard choices go away".

NAPF Press Release

REGULATORY

FSA and TPR issue warnings on the unlocking of pension schemes

The FSA and TPR have both issued statements on the risks of unlocking pension schemes (also known as “trust busting” or “pension liberation”).

The statements explain how the process of pension unlocking works and gives examples of what pension scheme members should look out for.

TPR makes particular mention of websites which offer to arrange loans to members of pension schemes which are given without the need for credit checks or security. Such arrangements can result in significant tax penalties for members who try to take advantage of the offers.