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NORTON ROSE FULBRIGHT

Essential pensions news

Updater

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Introduction

Essential Pensions News covers the latest pensions developments each month in an 'at a glance' format.

End of DB contracting out: DWP publishes guidance on alternative quality requirements for DB schemes offered for auto-enrolment

The DWP has published guidance on 'alternative quality requirements' that formerly contracted-out schemes providing defined benefits must meet to be qualifying schemes for auto-enrolment purposes. Prior to April 6, 2016, a contracted-out DB scheme automatically satisfied the statutory quality requirement by virtue of its contracted-out status. After that date, and the abolition of DB contracting-out, a DB scheme or section will be required to satisfy the quality requirement in an alternative way.

The two options available are to:

- meet the test scheme standard for a DB scheme set out in section 22 of the Pensions Act 2008 (PA 2008). Broadly, this is a scheme which provides a pension for life, from age 65 at an annual rate of 1/120th x average qualifying earnings in the last three tax years preceding the end of pensionable service x number of years of pensionable service (maximum of 40) or
- satisfy the 'alternative quality requirements' set out in section 23A of the PA 2008 and regulations 32L-M of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2012.

The main basis for meeting the alternative will be by satisfying a cost-of-accruals test that assesses the cost to the scheme of providing for the future accrual of active members' benefits. Generally, the test must be applied at scheme level, unless there is a material difference in the cost of providing benefits between different groups of active members, in which case the test must be conducted at benefit scale level.

The new guidance is aimed primarily at professional advisors and focuses on the technicalities concerning the cost-of-accruals test.

View the DWP guidance.

Abolition of DB contracting-out: new one-year power to modify scheme rules to retain fixed rate GMP revaluation

Of interest to all contracted-out DB schemes open to accrual is the introduction of a new scheme modification power in relation to the revaluation of Guaranteed Minimum Pensions (GMPs) for early leavers. Under the Occupational and Personal Pension Schemes (Modification of Schemes – Miscellaneous Amendments) Regulations 2016, trustees have one year from April 6, 2016 to use the modification power.

The introduction of the new flat-rate State Pension from April 6, 2016 means that contracting-out of the additional State Pension has ended, as the additional State Pension no longer exists.

The DWP has introduced new legislation that enables formerly contracted-out DB schemes which are open to accrual to modify their rules in relation to the revaluation of GMPs for early leavers. The modification may be made by resolution.

Formerly, legislation provided that a scheme may provide fixed rate revaluation of GMPs for early leavers. This was triggered by reference to the revaluation rate applicable in the year in which contracted-out service ended.

With effect from *April 6, 2016*, schemes are able to modify their rules, in relation to members who ceased contracted-out employment on *April 6, 2016* (as a result of abolition), to choose:

- to operate fixed rate revaluation calculated from the date when pensionable service ends (rather than from the date contracting-out ends) or
- to revalue GMPs by reference to earnings in the final tax year of earner's working life – that is, by reference to statutory increase orders in force at the time.

The changes have been implemented in response to concern that, when contracting-out ended on 6 April 2016, fixed rate revaluation would have been triggered automatically simply because members would have left contracted-out service, as it then no longer existed.

The new modification power has retrospective effect to allow changes to apply from *April 6, 2016* but is available for one year only, so changes must be made before *April 6, 2017*. Schemes which use fixed rate revaluation of GMPs, and wish to continue to do so, may wish to seek advice on passing the necessary resolution. Such a change would not be considered a 'listed change' under the consultation regulations.

EIOPA decides not to pursue EU solvency regime

In a move that will be welcomed by schemes providing DB benefits, the European Insurance and Occupational Pensions Authority (EIOPA), the European pensions regulator, has made the welcome announcement that is ending its work on a solvency-based funding regime for such pension schemes. The disappearance of the threat of Solvency II legislation removes the related hazard of huge increases in deficits for DB schemes.

For more than a decade, the threat of a new pension funding system based on the insurance industry's Solvency II legislation has been one of the biggest regulatory concerns for DB schemes. If implemented as was originally envisaged, with a risk-free discount rate to calculate liabilities, the 'Holistic Balance Sheet' would have caused enormous deficit increases and considerable disruption to pension investment.

EIOPA has been consistently lobbied by industry bodies such as the PLSA (formerly the NAPF) over its proposals to legislate for the new funding regime, and the announcement on *April 14, 2016* of EIOPA's conclusion that 'a one-size-fits-all solvency regime would not be appropriate' is seen as a significant coup for pension schemes.

View the PSLA press release.

HMRC publishes Countdown Bulletins no. 15 and 16 – additional information on the new Guaranteed Minimum Pensions (GMP) Checker

Of interest to all schemes providing GMPs is the publication by HMRC on April 5 and 13, 2016 of additional Countdown bulletins. These provide information on its GMP Checker facility, which is available from *April 6, 2016*, and which was formerly known as the GMP Micro Service.

The GMP Checker is available online to all scheme administrators and provides GMP calculations, contributions and earnings information in respect of individual pension scheme members. The GMP Checker service replaces CA1629 statements for individuals who reach State Pension age on or after April 6, 2016, as CA1629 statements are no longer being issued.

View Countdown bulletin no. 15.

Countdown Bulletin no. 16 – more on the GMP Checker

On April 13, 2016, HMRC published issue no. 16 of its bulletin on the end of contracting-out. This bulletin notes that the GMP Checker will continue to be developed after *April 6, 2016* (the date contracting-out on a DB basis ceased) and the intention is to implement a bulk facility will follow, allowing scheme administrators to obtain calculations in respect of multiple members.

Information is also provided for those having problems accessing the Checker service, or wishing to query a GMP calculation.

The bulletin also notes that as the date for registration to use the Scheme Reconciliation Service has now passed (April 5, 2016), the online link has now been removed. However, HMRC will consider late expressions of interest in exceptional circumstances.

The answers to various queries arising during the HMRC scheme reconciliation forums are also provided.

View Countdown Bulletin no. 16.

Pensions Regulator consults on its revised compliance and enforcement policy

Of interest to all schemes offering DC benefits is the publication by the Pensions Regulator (TPR) of a consultation document on its proposed revised compliance and enforcement policy. Views are sought on the new policy which incorporates requirements imposed by the Occupational Pension Schemes (Charges and Governance) Regulations 2015 and sets out TPR's procedures and general guiding principles in relation to penalties for non-compliance.

The consultation closes on *May 3, 2016*.

The draft policy also sets out how TPR will determine the mandatory fine for breach of the requirement to prepare a chair's statement. The minimum penalty will be £500 (unless there are exceptional circumstances) with an additional ten pence for each member with money purchase benefits, up to a maximum of £2,000. The additional ten pence component will be doubled where there has been a breach of the same requirement within the last three years. The fine for schemes with a professional trustee in place will be £2,000.

In relation to TPR's approach, the current DC compliance and enforcement policy focuses on thematic reviews. TPR proposes to broaden its proactive approach, engage with schemes on a regular basis and target its actions where it considers the greatest risks to non-compliance with legal requirements and good member outcomes exist.

The draft policy sets out the guiding principles TPR will consider when setting the amount of a civil penalty or making a recommendation to the Determinations Panel as to the amount of a penalty:

- the penalty should be proportionate to the nature of breach and harm caused
- the amount of the penalty should aim to change the behaviour of the person in breach
- the penalty should aim to deter repetition of the breach amongst the wider regulated community
- the penalty should be increased for repeated breaches, up to the statutory maximum.

In relation to financial penalties, TPR may take into account representations that payment of the penalty amount within the specified period would result in undue financial hardship.

The list of relevant factors for TPR to consider when determining its enforcement action has been expanded to include whether the trustee is a professional trustee. This reflects the DC Code of Practice which sets out TPR's expectation that professional trustees should meet a

higher standard of care and demonstrate a greater level of knowledge and understanding than lay trustees. Additional relevant factors include the extent to which a third party may have contributed to the trustees' non-compliance, and whether or not the scheme is being used to meet an employer's auto-enrolment duties.

View the consultation paper.

TPR consults on six new guides to accompany revised DC Code

Of interest to all schemes providing DC benefits is TPR's publication of six new guides to accompany the revised DC Code published in November 2015, and on which we reported in our December 2015 update. While the Code sets out the standards TPR expects schemes to meet when complying with the law, the guides provide information on how those standards might be met in practice. Consultation on the guides closes on May 11, 2016, with the final versions being published alongside the new Code in July 2016 when it comes into force.

Each of the six guides focuses on one key area of the new, shorter DC Code, as set out below:

The trustee board (15 pages). This guide covers matters such as assessing the fitness and propriety of prospective trustees, the role of the chair, composition of the trustee board and establishing sub-committees. The guide also includes a section on the requirements in relation to trustees of master trusts. In relation to the chair of trustees, the guide states that although they 'should have a good overall knowledge of pensions' they 'do not need to be an expert in every area'.

Scheme management skills (20 pages). This guide includes sections on obtaining and improving knowledge and skills, evaluating trustees' knowledge and understanding and evaluating the effectiveness of the trustee board as a whole. The guide also covers the selection and appointment of advisers and service providers (including a checklist for reviewing contracts for services) and sections on monitoring performance, conflicts of interest and risk management.

Administration (24 pages). This guide deals with the importance of facilitating a working relationship between the employer and the scheme administrator together with administration reporting (including details of what the administration report should contain as a minimum). Also included are sections on processing core financial transactions promptly, putting in place service level agreements, transfers and record-keeping.

Investment governance (26 pages). This guide deals with investment governance structures, designing investment arrangements (including default arrangements), selecting individual funds and monitoring and reviewing the default strategy and the performance of the default arrangement. It also includes sections on reviewing the longer term performance of individual funds, changing investment funds and security of assets.

Value for members (19 pages). In this guide, TPR notes that, although trustees are required to carry out a full review of value for members at least once a year, they should also have arrangements in place to enable the ongoing monitoring of services provided to the scheme. In addition, value for members should be a rolling agenda item for board meetings. To assist trustees in the process, the guide includes a detailed illustrative approach to assessing value for members.

Communicating and reporting (24 pages). This guide includes sections on communicating with members as they approach retirement, including a good practice process for providing information at retirement, the requirements in relation to the annual chair's statement and the provision of risk warnings. An example of generic risk warning wording is given, reflecting the new post-April 6, 2016 disclosure requirements concerning DC flexibility.

TPR has also produced a video providing an overview of the guides. In addition, there is a scheme assessment template which will be retained online. It is intended for use by trustees to assess their scheme against the standards of practice and conduct set out in the new Code and to support the development of an effective Chair's statement. The assessment tool does not reference the 31 quality features which were the framework for the previous code, but TPR states that schemes which put in place processes to reflect those features will find they remain relevant.

Comment

The revised, shorter Code was welcomed generally as it was seen as a simpler version than the predecessor Code in which much of the content had been rendered out of date by legal developments. TPR's clear distinction between legal requirements and its actual expectations was also viewed positively.

Although we sounded a note of caution about the potential length and complexity of the forthcoming guidance to accompany the new Code, it seems TPR has divided this into fairly manageable chunks. It is stated that the guides are not intended to be prescriptive, although TPR does indicate what it considers to be best practice, and provides examples of approaches that could be taken and factors to be considered, which trustees will welcome. The intention behind keeping the guides separate from the new Code is to enable new or revised guidance to be produced as the need arises or in response to industry demand, which seems sensible given the speed of change generally in the pensions arena.

Consultation on calculating pension loss in the employment tribunal

Of general interest is a new consultation on calculating pension loss for compensation purposes. Over the last few years, the 2003 booklet on Compensation for Loss of Pension Rights in the Employment Tribunals has become increasingly out of date. The President of the Employment Tribunals has issued a consultation paper introducing instead Presidential Guidance involving a distinction between simple and complex pension loss cases.

Responses are sought to the consultation by *May 20, 2016*.

Background

In 1991, guidelines were published on how to assess loss of pension rights in cases brought before the employment tribunals. The guidelines were revised periodically, with the most recent edition being published in 2003. The guidelines sought to provide help when assessing the value of lost pension rights. In brief:

- where the claimant was a member of a DC scheme, compensation could be assessed as equivalent to the value of contributions that the employer would have paid into the scheme during the period of loss (the contributions method) or

- where the claimant was a member of a DB scheme, the guidelines suggest that the tribunal can choose to adopt either a 'simplified' approach or a 'substantial loss' approach. Both use multipliers that were developed by the Government Actuary's Department (GAD) from actuarial assumptions that were made in 2003 and are therefore now out of date.

As these were only guidelines, the parties would sometimes decide to suggest their own approach, but this involved commissioning expert actuarial advice.

In *Griffin v Plymouth Hospital NHS Trust* [2014], (and as reported in our October 2014 update), Underhill LJ noted that the guidelines had not been updated for more than a decade and called for priority to be given to producing a revised version. The guidelines were subsequently amended to state that they had been withdrawn.

On March 30, 2016 the President of the Employment Tribunals issued a consultation paper which was the result of the work done by the working group convened by the Presidents in England & Wales and Scotland.

The consultation notes that there is no funding available to support the ongoing involvement of GAD, which means that the approach adopted by the guidelines is not feasible and a different approach is needed.

Proposed approach

The working group recommends moving away from the guidelines and adopting the approach outlined below.

- Ending lost additional state pension rights as a head of loss.

- Creating a new category of 'simple' cases, which applies for claimants who are members of either DC or DB schemes. In such cases the tribunal will use the 'contributions method' to assess compensation. In respect of DB schemes, this means abandoning the lost enhancement of pension rights that accrued before dismissal as a discrete head of loss. The working group anticipate that most cases where the tribunal awards pension loss will fall into this category.

- Creating a new category of 'complex' cases (equivalent to the 'substantial loss' cases under the guidelines). Such cases potentially involve large amounts and the working group anticipates that they will be rare. It proposes:

  - identifying such cases at an early stage of case management, and listing liability and remedy separately. To help this, tribunals would discourage claimants from failing to give details of their pensions loss in schedules of loss

  - if the claim succeeds and a significant award for pension loss remains feasible, the tribunal will then allocate dates for a two-stage remedy hearing

  - at the first-stage remedy hearing the tribunal would deal with straightforward matters of remedy (such as the basic award, unpaid holiday pay, any award for injury to feelings and possibly even past or future pecuniary loss that is not pension-related). It would also make findings of fact on the areas that, in consultation with the parties, are considered relevant to the calculation of pension loss (such as the date of retirement, the accrual rate for the DB scheme and the prospects that the claimant would have been promoted to a better remunerated job if they had not been unlawfully dismissed)

  - the parties would then be given a period to agree a figure for pension loss
  - if the parties cannot agree a figure, the tribunal would take one of two approaches: one for most cases, and the other much more rarely.

- The first approach, which should apply in most 'complex' cases, would involve applying the Ogden tables (which GAD maintains). Again, this could be done by agreement or at a second-stage remedy hearing. The outcome would not be precise but should be both just and an improvement on use of the guidelines. It would involve less cost to the parties and be more straightforward than the other option
- The second approach, which should rarely be relevant, involves using actuarial evidence. The tribunal, in consultation with the parties, would make directions for such expert evidence, ideally using a jointly instructed expert. It is also possible that there are cases where it would be appropriate for the parties to instruct an expert each. Hopefully, the tribunal will be able to adopt the joint expert's figures for the pension loss unless there was a very good reason to do otherwise. Again, this could be done by agreement or, where areas of dispute remained, at a second-stage remedy hearing.
- The parties would be free to propose an alternative approach if they wished.
- If appropriate, the tribunal would offer judicial mediation as an alternative mechanism for reaching agreement on the amount of the pensions loss.
- The new approach would be set out in Presidential guidance (either integrated into current case management guidance in England and Wales and Scotland or in a separate document).
- The Presidential guidance would not have statutory force but would simply set out the approach the tribunal would propose to adopt. Parties would still be free to submit that other approaches should be adopted and that the tribunal would consider such submissions on their merits.

Consultation questions

The consultation paper seeks views on the following proposals:

- That the tribunal operates a default assumption that claimants will retire at state pension age, with the onus on the parties to persuade the tribunal to depart from it by terminating loss before or after that age.
- That the tribunal operates a default assumption that claimants will suffer no loss to their state pension, with the onus on claimants to persuade the tribunal otherwise.
- That the tribunal operates a default assumption that claimants will suffer no loss of additional state pension rights, with the onus on claimants to persuade the tribunal otherwise.
- That the tribunal operates a default assumption that claimants will suffer no loss by reason of losing the facility to make employee contributions (including AVCs), with the onus on claimants to persuade the tribunal otherwise.
- That the tribunal operates the following default assumptions in a simple DC case where the contributions method is deployed:

  - the claimant was an eligible jobholder in the job from which they were dismissed and was therefore entitled to be auto-enrolled
  - the claimant did not opt out of the scheme into which they had been auto-enrolled
  - in the context of any successful mitigation of loss through finding future employment, the claimant would remain an eligible jobholder entitled to be auto-enrolled
  - the claimant would not opt out of that scheme either
  - in the context of assessing future pension loss, the claimant would need to give credit for employer contributions from the hypothetical future employer at the mandatory minimum level
  - if the claimant wishes to claim additional pension loss, for example by contending that the respondent would have paid more than the mandatory minimum level of contributions, as a result of membership of a more generous DC scheme, they bear the onus of persuading the tribunal.
- That the tribunal operates the following default assumptions in a simple DB case:
  - reliance only on the contributions method, meaning no award for loss of enhancement of accrued pension rights
  - if the claimant successfully mitigates loss through finding future employment with comparable DB benefits, or the tribunal expects the claimant to do so, there will be no loss of pension rights beyond the start date of the new employment
  - if the claimant successfully mitigates loss through finding future employment with inferior DC benefits, or the tribunal expects the claimant to do so, then (unless a complex approach is merited) the tribunal will adopt the same assumptions about auto-enrolment as set out in relation to DC schemes.
- That the tribunal adopts the following approach in complex cases:
  - cases with a realistic prospect of the tribunal making a significant award for loss of pension rights would be identified at an early stage, through a telephone preliminary hearing, and have a split liability and remedy hearing
  - if the claimant succeeded at the liability stage and there remained a realistic prospect of a significant award for loss of pension rights, there would be a two-stage remedy hearing. The first hearing would enable the tribunal to set the figures for non-pension loss and to make findings on areas relevant to the calculation of pension loss (following which the parties would be given a time-limited opportunity to agree the quantum of pension loss). If the parties cannot reach agreement, there would be a second hearing to finalise the figures for pension loss. There would be two preferred approaches: (a) the Ogden tables approach using a discount rate of 2.5 per cent; or (b) more rarely, the actuarial expert approach
  - there would be active consideration of judicial mediation.

Comment

It is welcome news that there is proposed revised guidance, given previous concerns that the existing guidelines had outlived their practical use. Generally, the proposals seem sensible and, as the vast majority of claimants (outside the public sector) are now members of DC schemes, the contributions method will be appropriate for calculating pension loss in the majority of cases.

Unsurprisingly, the position is less clear-cut for members of DB schemes. In such cases, the contributions method is unlikely to give an accurate estimate of future loss. In addition, even if the 'complex' approach is used, there are technical issues in that the Ogden tables do not reflect increased benefit accrual due to future salary increases. Additionally, the tables are themselves arguably out of date, as the discount rate on which they are based is set at 2.5 per cent. This rate no longer seems appropriate in the current financial environment, and its continued use is likely to lead to significant under-compensation in some instances.

View the consultation paper.

HMRC publishes pension schemes newsletter 77

Of general interest is the publication by HMRC of edition 77 of its pension schemes newsletter. Much of the newsletter is devoted to summarising the measures announced at the 2016 Budget on March 16, 2016, as reported in our March 2016 update. Other matters included in HMRC's newsletter are detailed below.

- Event reports – HMRC is reviewing the format of the event report that scheme administrators are required to submit to HMRC each January giving details of certain events occurring in the preceding tax year. The 2016/17 event report does not yet include provision for reporting individuals who rely on fixed protection 2016 or individual protection 2016 when taking their benefits. In most cases, administrators will not need to submit an event report until January 2018, but if early submission is necessary for any reason, HMRC gives specific instructions about the steps that administrators should take.

- Lump-sum death benefits – as marginal-rate taxation will apply to most lump-sum death benefit payments from 6 April 2016, HMRC is instructing administrators to deduct income tax using emergency tax codes. Three new forms will be available for individuals to claim repayment of overpaid tax, depending on their individual circumstances. Further detail is also provided about the steps that should be taken by administrators, trustees and beneficiaries where death benefits are paid to a trust.

- Annual allowance – HMRC is developing an online calculator that will reflect the recent changes to the annual allowance, including the new taper and the alignment of pension input periods with the tax year. The tool is expected to be available by the summer.

- Informing members about recent changes – standard-form letters to members have been appended to the newsletter covering the new forms of lifetime allowance protection and the changes to the annual allowance rules.

View the newsletter.

HMRC publishes consultation on creating secondary annuity market

Of general interest is HMRC's publication on *April 20, 2016* of its consultation document 'Creating a secondary annuity market: tax framework'. The consultation runs until *June 15, 2016*.

In the Budget 2015, the Government signalled its intention to create a secondary market for individuals to sell their annuity income in exchange for a lump sum. The aim is to extend the new pension flexibilities to those who retired prior to April 2015 and had already purchased an annuity product, as this was the only option at the time.

This consultation paper lays out the proposed tax framework for the secondary market for annuities. We will set out the detail of the consultation in a future update. Meanwhile, the paper is available at the link below.

View the consultation.

Finance Bill 2016 published

Of general interest is the publication of the first version of the Finance (No.2) Bill 2015-2016 (FB 2016) on March 24, 2016, along with explanatory notes. The Bill had its first reading on March 22, and the second reading is scheduled for April 11, 2016. The Bill is expected to receive Royal Assent in summer 2016, at which point it will become the Finance Act 2016. The key pension measures in the FB 2016 are set out below.

Technical amendments to support DC pension flexibility

These provisions will take effect the day after Royal Assent and remove unintended consequences arising following the introduction of the new DC pension flexibilities in April 2015 and include the following:

- Serious ill-health lump sum. Amendments are made to the taxation of serious ill-health lump sums paid to an individual who has reached age 75 to remove the 45 per cent charge and replace it with a charge at the recipient's marginal rate. The FB 2016 also amends the definition of serious ill-health lump sum in the Finance Act 2004 to allow a lump sum to be paid out of unused funds in a drawdown fund.

- Charity lump sum death benefits. Amendments allow payment of a charity lump sum death benefit from uncrystallised funds in respect of a member who had not reached age 75 at the time of his death.

- Dependants' flexi-access drawdown funds. Amendments are made to the conditions that must be met for a drawdown fund to be a dependant's flexi-access drawdown fund or a dependant's drawdown fund. This will enable a dependant with these type of funds who would currently have to use all of this fund before age 23 to be able to continue to access these funds as they wish after their 23rd birthday.

- Trivial commutation lump sum. Amendments allow a scheme pension to be paid as an authorised payment where it is commuted to be a trivial commutation lump sum and amendments in relation to lump sums paid out of uncrystallised rights.

- Top-up of dependants' death benefits. Amendments allow employers to top up the amount of any shortfall in funds in a cash balance arrangement in order to meet the entitlement of the member's beneficiaries to an uncrystallised funds lump sum death benefit due under the scheme rules. The top up can only be made in respect of a shortfall at the time of the member's death.

Fixed protection 2016 and individual protection 2016

Provisions are included relating to the transitional protections, fixed protection 2016 (FP16) and individual protection 2016 (IP16), following the reduction in the standard lifetime allowance (LTA) to £1 million with effect from *April 6, 2016*.

FP16 and IP16 will work in a similar way to the two previous transitional protection regimes, FP14 and IP14. Individuals must obtain a reference number from HMRC if they wish to rely on FP16 or IP16, before they take their benefits. Individuals with FP16 will have a personal LTA equal to the greater of £1.25 million and the standard LTA. Individuals with IP16 will have a protected LTA of the value of their pension savings on April 5, 2016 subject to an overall limit of £1.25 million.

Further provisions

Other provisions include:

- Bridging pensions. The existing related provisions in the Finance Act 2004 are removed and HMRC will put forward for consultation new regulations, which will align pensions tax legislation with the Pensions Act 2014 (which introduces a single-tier state pension from 6 April 2016).

- Dependants' scheme pensions. The FB 2016 incorporates amendments introducing exceptions from the annual test that must otherwise be carried out in respect of annual increases in dependants' scheme pensions where an individual who was entitled to a scheme pension dies having reached age 75.

- Drawdown funds and inheritance tax. The scope of the current inheritance tax (IHT) exemption is extended so that the failure to exercise rights to draw all of the designated funds from a drawdown pension fund or flexi-access drawdown fund before a pension scheme member's death will not trigger an IHT charge.

The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016 – DC governance requirements

Of interest to all multi-employer schemes is the implementation on *April 6, 2016* of the Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016. These regulations are intended to simplify the DWP's occupational DC scheme governance requirements that were introduced in April 2015. The regulations provide that multi-employer group schemes are excluded from the additional governance requirements applying to commercial master trusts or industry-wide schemes (with changes to the definition of a 'relevant multi-employer scheme').

A statutory override is also introduced to ensure that the statutory requirements on relevant multi-employer schemes to have at least three trustees and a majority of non-affiliated trustees take precedence over any conflicting provisions in schemes' trust deeds and rules.

Additionally, a deputy chair or other person appointed by the trustees will be able to sign a scheme's annual governance statement if there is no chair in place for any reason.

Auto-enrolment: 2016/17 earnings trigger frozen at £10,000

Of general interest is the confirmation from the DWP, following its annual review, that the auto-enrolment earnings trigger will remain fixed at £10,000 for 2016/17.

For the qualifying earnings band, the DWP has decided to continue to set the lower and upper ends of the bands in line with the National Insurance Contributions lower and upper earnings limits respectively, that is £5,824 and £43,000 (up from £42,385 in 2015/16).

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