Pensions Bulletin

Fact Sheet 2

Spring 2009 Issue 4

Pensions Act 2008

1 Introduction

1.1 The Pensions Act 2008 received Royal Assent on 26 November 2008. The Act puts in place the following measures:

- The introduction of a system of auto-enrolment and Personal Accounts.
- The simplification of some aspects of pension provision.
- The protection of defined benefit (DB) pension benefits.
- Some amendments regarding pension scheme compensation.

1.2 Please refer to Fact Sheet 1 (accompanying the Spring 2009 issue of the Pensions Bulletin on our website) for details about auto-enrolment and Personal Accounts. All the other aspects of the Pensions Act 2008 are provided in this Fact Sheet.

2 Measures to simplify pension provision

2.1 *Abolition of restrictions to the way in which pensions are shared on divorce:*

- "Safeguarded rights" (which are the contracted-out element of a pension credit granted to an ex-spouse under pension sharing on divorce legislation) are abolished under the Pensions Act 2008.
- There are restrictions in the manner in which safeguarded rights can be applied to the ex-spouse. Once this provision is brought into force (likely to be April 2009), benefits from pension sharing that derive from contracted-out rights will be treated in the same way as other pension rights that are shared on divorce.

2.2 *Rules to enable the cap to be reduced from 5% to 2.5% on the revaluation of deferred pension benefits for future service:*

- The statutory rate of revaluation which applies to deferred pensions in excess of Guaranteed Minimum Pension will change (effective from April 2009).
- Currently, the statutory rate is 5% or RPI (whichever is less). From April 2009, the "5%" will be changed to "2.5%", but only for benefits attributable to future pensionable service.
- This revaluation change is voluntary; schemes can continue to revalue preserved pensions at the current rate if they wish.
- Although the legislation allows the change to be made from April 2009, The Pensions Trust does not have any capacity to implement the required systems and documentation changes to bring the change in from this April. The earliest date that the Trust will have the capacity to make the required changes is April 2010.

2.3 *Abolition of all "protected rights" requirements:*

- The requirement for schemes to make special provision in relation to the "protected rights" of members (from contracting-out on a money purchase basis) are abolished under the Pensions Act 2008.

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- The Pensions Act 2007 already provides for the abolition of contracting-out on a money purchase basis (from 2012). The 2008 Pensions Act change supplements this and means that schemes will no longer have to keep separate records of members' protected rights. It should be noted that the changes will also affect defined benefit schemes that provide protected rights.

2.4 *For people reaching State Pension Age after 5 April 2020, the additional state pension (i.e. SERPS and the State Second Pension) that is built up prior to 6 April 2012 will be converted into a cash sum:*

- The Pensions Act 2008 will enable the consolidation of the additional state pension rights currently being built up by people of working age.
- Individuals' entitlements from the Graduated Retirement Benefit scheme (GRB), State Earnings Related Pension Scheme (SERPS) and State Second Pension (S2P) up to and including the 2011/12 tax year will be converted into a cash sum, which will be revalued annually in line with earnings until the individual retires.
- It is hoped that as a result of this measure, people will be able to work out much more easily what state pension they can look forward to and, subsequently, be better able to plan appropriately for their retirement.
- This applies to people reaching State Pension Age on or after 5 April 2020.

2.5 *Removal of the requirement for employers to provide access to a stakeholder pension scheme:*

- From 2012 employers will no longer have to provide access to a stakeholder pension. This measure corresponds with the impending changes regarding auto-enrolment and Personal Accounts.

3 Measures to protect Defined Benefit (DB) pension benefits

3.1 *The Pensions Regulator can now appoint trustees in certain circumstances, for example in order to protect the interests of scheme members*

3.2 *The Pensions Regulator can now fix the actuarial assumptions used in a DB scheme's funding valuation where the assumptions chosen by the trustees do not appear to be prudent*

3.3 *The Pensions Regulator's anti-avoidance ("moral hazard") powers are extended under the Pensions Act 2008:*

- There is a new test for Contribution Notices based on "material detriment" – enabling the Regulator to intervene to address material risks to members' benefits, subject to certain safeguards. The change means that the Regulator will have the power to require a contribution to a pension scheme if a sponsor employer's actions or failures have a materially detrimental effect on the likelihood of members receiving their benefits.

4 Measures regarding pension scheme compensation

4.1 *The Financial Assistance Scheme (FAS) has now been extended to members of schemes wound-up by solvent employers:*

- The FAS has already been subject to a number of revisions since its introduction and the Pensions Act 2008 provides for further changes to be made in order to extend the ban on annuitisation which applies to schemes eligible for financial assistance.
- The temporary legislation stopping trustees of schemes eligible for the FAS from buying annuities, which was implemented by regulations, expired on 25 June 2008. The statutory replacement for the temporary ban is an indefinite extension, which will have retrospective effect from 26 June 2008.

- Also, a regulation-making provision allows the Government to widen the FAS to include a small number of schemes which are currently ineligible for both the FAS and the Pension Protection Fund (PPF).
- Relevant regulations were laid before Parliament on 2 December and came into force on 23 December 2008.

4.2 *Interest may be charged on the late payment of PPF levies*

4.3 *Compensation paid by the PPF will be able to be shared between both parties to a divorce*

The Pensions Trust will contact affected participating employers, as and when required, about the introduction of particular Pensions Act provisions. Note that some of the detail of the new Act will be set out in future regulations and updates regarding the Act will be included in future issues of the Pensions Bulletin and also via supplementary, more detailed, fact sheets.

In addition, detailed explanatory notes to the Pensions Act 2008 are available on the website of the Office of Public Sector Information at www.opsi.gov.uk/acts/acts2008/en/ukpgaen_20080030_en.pdf

While every effort has been made to ensure the accuracy of the information contained in this fact sheet, it should not be treated or relied upon as a statement of law. Readers should contact their regular Account Manager at The Pensions Trust in relation to their own circumstances and / or refer to the original source material as appropriate.

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