Barnett Waddingham
a **true partnership** approach

News on Pensions

JANUARY 2015

Legislation update

Taxation of Pensions Act 2014

The Taxation of Pensions Bill has received Royal Assent - becoming the *Taxation of Pensions Act 2014* on 17 December 2014. The Act made law the pension flexibilities announced by the Chancellor of the Exchequer in his 2014 Budget speech (see *News on Pensions – April 2014*), as well as some other changes to inheritance tax rules announced subsequently (see *News on Pensions – October 2014*). There were no significant amendments to the Bill in the latter stages of its progression through parliament. The majority of the changes in the Act will come into effect from 6 April 2015.

Pension flexibility

The new flexibilities for defined contribution (DC) pension arrangements include:

- **Drawdown:** Individuals will be able to access their DC funds as and when they wish via a new 'flexi-access drawdown fund', with no caps on the amount withdrawn and no minimum income requirement. Payments from flexi-access drawdown funds will be taxable as income, but individuals can take a tax-free lump sum of up to 25% of their pension fund when their remaining funds are designated to a flexi-access drawdown fund.
- **Lump sums:** As an alternative to flexi-access drawdown, individuals may take a single or series of lump sums from 'uncrystallised' funds from age 55. 75% of each lump sum will be taxed as income with the remaining 25% paid tax-free.
- **Annuities:** Individuals may still purchase an annuity with their DC funds, although annuities will now be allowed to reduce as well as increase in payment. The current maximum period of 10 years for guaranteed annuities will be removed.

To ensure that the new system is not exploited, a new 'money purchase annual allowance' of £10,000 will apply for any new money purchase savings by individuals who have used the new flexibilities to access their pension savings. The legislation also includes a scheme rules override in order to allow (but not require) trustees to offer flexibility under the new framework without having to change the scheme rules.

READ THE AUGUST 2014 EDITION OF OUR NEWS ON PENSIONS FOR FURTHER INFORMATION >

Inheritance tax

Individuals will be able to pass on uncrystallised DC pension savings to any nominated beneficiary when they die, without incurring the 55% tax charge which currently applies. Where the individual dies over age 75, benefits will be taxed at the recipient's marginal rate of income tax (but a 45% charge will apply to lump sum payments until 2016-17). The change does not apply to defined benefit (DB) scheme pensions, which are not inherited in the same way. Although the Chancellor confirmed in the *Autumn Statement* that the relaxations will also apply to joint life or guaranteed term annuities (where no payment has already been made to the beneficiary by April 2015), the final Act did not include the relevant clauses and so further legislation will be required later this year.

Pension Schemes Bill 2014

Amendments have been made to the *Pension Schemes Bill*, in particular, clarifying the operation of collective benefits schemes and including provision for further regulations to be made. The Bill now also includes provisions relating to the 2014 Budget flexibilities, such as the requirement for trustees to check that a member has received appropriate advice, the guidance framework, and treatment where a scheme enters the Pension Protection Fund (PPF). The Bill has now passed to the House of Lords.

Assigning pension scheme debts

The High Court has ruled that pension scheme trustees are legally entitled to *assign a Section 75 debt* owed to the scheme by an employer.

In the case of Singer & Friedlander v Corbett, the sponsoring company had entered administration in 2008, but the administration was not yet complete. The trustee of the scheme had served a Section 75 debt on the company of around £74 million and had received some dividends as part of this administration. However, further dividends are still possible and the trustee could not therefore complete wind up of the pension scheme whilst this possibility remained.

The trustee applied to the High Court to clarify whether it could assign the outstanding debt and therefore complete wind-up of the scheme without having to wait for the company administration to be concluded. The court agreed this was possible and the outstanding debt was subsequently sold to an undisclosed buyer.

Trustees who are considering assigning Section 75 debts should ensure that they are acting in their members' best interests and that they have taken legal advice.

Auto-enrolment update

The Department for Work and Pensions (DWP) *has been consulting* on draft regulations to 'simplify the process for automatic enrolment … and reduce burdens on employers'. The measures contained in the draft Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2015 will do the following:

- The regulations will introduce an alternative quality requirement for DB pension schemes, based on the cost of pensions accruing. The DWP does not intend to prescribe the methods and assumptions for testing DB schemes, and will not require actuarial certification.
- The requirements on employers regarding the provision of information about automatic enrolment to their employees will be simplified.
- The regulations will also create exceptions to the employer duties so that an employer is not required to enrol an employee into a workplace pension in certain situations.

Meanwhile, the DWP *has responded* to its earlier consultation on auto-enrolment earnings thresholds. In particular, it has confirmed that the auto-enrolment earnings trigger will be set at £10,000 for 2015/16 (i.e. unchanged from 2014/15) and earnings between £5,824 and £42,385 will be 'qualifying earnings' for auto-enrolment purposes.

The DWP has also issued *draft regulations* removing the £4,600 contribution limit and restrictions on transfers out which currently apply to the National Employment Savings Trust (NEST). This follows an earlier consultation by the department (see *News on Pensions – November 2014*).

Finally, the DWP has also published a new *information page* on auto-enrolment for workers.

DWP/HMRC: Ending of contracting-out

The DWP and HM Revenue & Customs (HMRC) have published guidance for employers, trustees and members of open, contracted-out DB pension schemes on the *ending of contracting-out* of the additional State Pension from 6 April 2016.

The guides suggest that trustees and employers should begin planning now, and should consider how to communicate any changes to affected members of the scheme. An *employee factsheet* has been prepared by the Government to help with this.

Other news

FCA: Annuity market reviews

The Financial Conduct Authority (FCA) has *published* the findings of its 'Thematic Review' into annuity sales practices, and the interim findings of a separate market study of retirement income:

- **Thematic Review**

  The FCA's Thematic Review looked at 'non-advised' sales practices where providers offer annuity products to their existing customers. The FCA found evidence suggesting that the approach taken is contributing to consumers not shopping around, resulting in consumers buying the wrong type of annuity (for example missing out on enhanced annuities where eligible).

  The FCA has asked some firms to investigate this further, and has found examples where the Association of British Insurers (ABI) Code is not being applied in practice.

- **Market study**

  The FCA's market study was intended to assess whether competition in the retirement income market is working well and to consider what changes could be made to achieve better outcomes.

  As with their Thematic Review, the FCA found that competition is not working well for consumers and that many are missing out by not shopping around before purchasing an annuity or by not switching providers. The FCA therefore intends to require firms to make it clear to consumers how their quote compares to those of other providers in the open market.

Pension statistics

The Office for National Statistics (ONS) has published *Pension Trends – Pension Contributions 2014*, which shows that employer contribution rates to DB schemes rose slightly between 2011-2013.

Meanwhile, the NAPF has released highlights of its *annual survey*. The survey shows the trend of DB schemes closing continues, and active membership of DC schemes now outstrips the active membership of private sector DB schemes.

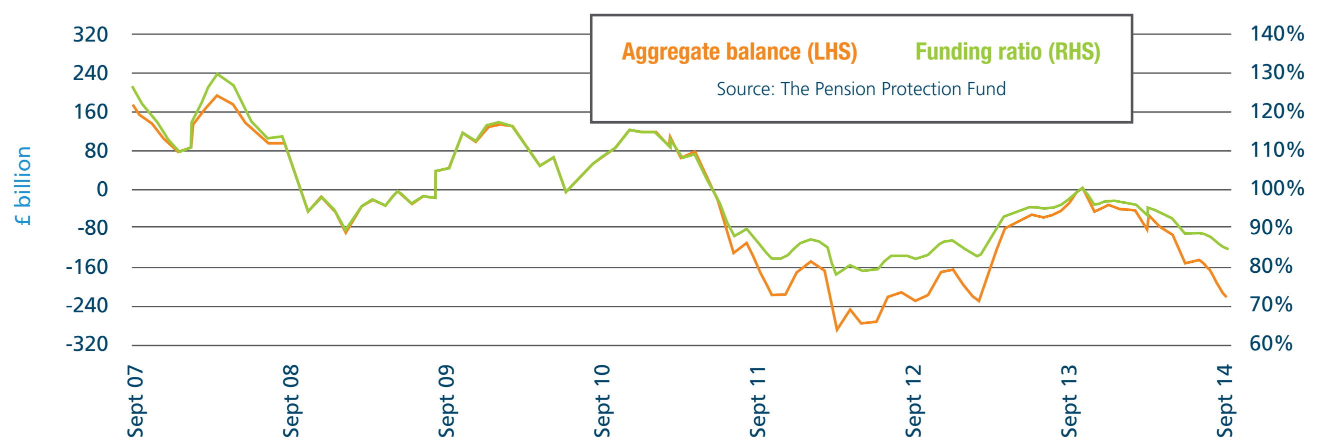
PPF: 7800 index

The latest update of the PPF's 7800 index of schemes' funding (on the s179 basis) has been published.

The aggregate deficit of the 6,057 schemes in the index is estimated to have increased over the month to £221.1 billion at the end of November 2014 (there was an aggregate deficit of £164.9 billion at the end of October 2014).

The funding ratio decreased from 87.9 per cent to 84.8 per cent. There were 4,781 schemes in deficit and 1,276 schemes in surplus.

ESTIMATED AGGREGATED BALANCE (ASSETS LESS S179 LIABILITIES) AND FUNDING RATIO OF SCHEMES IN THE PPF UNIVERSE



Further information

Pensions: A brave new world

Following the changes to pensions taxation and the Government's reform of DC pension savings, Barnett Waddingham and Whitefoord Wealth Management are hosting a joint seminar in London on 4 February 2015 exploring risks and opportunities for high earners.

FIND OUT MORE >

Investment strategy considerations: 2015 and beyond

Quantitative Easing (QE) has driven most markets on the same upward trajectory. The completion of tapering in the US, along with talk of interest rate rises in the UK could signal an end to this easy ride.

Our seminar on 5 February will consider how pension schemes should position their investment strategies for this new environment and will also explore whether existing approaches are fit for a future without QE.

FIND OUT MORE >

On our website

You may find the following recent blog posts and information sheets interesting:

- *Johnson report comforts schemes providing CPI-linked pension increases*
- *VAT: RIP the trustee. Long live the trustee company…?*
- *Holiday pay ruling is no vacation for pension schemes*
- *Medical underwriting for bulk annuities – the market gathers pace*
- *Inflation protection – a capacity crunch over the horizon?*
- *Market volatility – back on the radar*
- *Technology for pension schemes*

Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail. Alternatively contact us via the following:

info@barnett-waddingham.co.uk
0207 776 2200
www.barnett-waddingham.co.uk