Transfer values – the Government opts to legislate for little change

Following the closure of consultation by the Department for Work and Pensions on approaches to the calculation of transfer values last August (see Pensions Bulletin 2006/33), the Government has announced its way forward in a written statement to Parliament.

It has decided to legislate for an “expected cost to the scheme” approach using best estimate assumptions which have regard to the existing asset mix of the scheme. This was the overwhelming view of those who responded to the consultation, details of which have also been made available. The hope is that for many schemes, only minor changes will be needed.

Under the new regime:

- trustees, not the scheme actuary, will determine the assumptions to use within this framework and although they must seek actuarial advice they do not have to follow it;
- as at present, but unlike scheme funding, the trustees will not have to consult or obtain agreement with the employer;
- the approach to cutting back transfer values where schemes are under-funded is to continue broadly as at present;
- as at present, trustees will be able to deduct any reasonable administrative costs incurred from the transfer value; and
- trustees will have to provide members considering whether to transfer with more information so that they can make an informed decision—however, with an eye to the increased burden that this could generate, the Government is looking at the use of generic information provided by regulators.

The Government intends to publish draft regulations for consultation in the early part of 2007 but this may be held up by amongst other things the need to come to a decision on transfer value calculations within the public sector. Nevertheless the aim now is to finalise the regulations by the middle of 2007 for them to come into force on 6th April 2008 – one year later than the Government's initial aspiration.

As part of this process the Board for Actuarial Standards (BAS) will consider whether guidance is needed for actuaries on the new regime. The current Actuarial Guidance Note, GN11, is due to be transferred to BAS by this April.

A number of respondents to the consultation suggested that the statutory right to transfer should be removed. The Government gave this full consideration but believes that the arguments are not strong enough for such a dramatic change. Separately, the Government will re-visit transfer values in relation to pension sharing on divorce, not with the intention of providing for a different valuation approach, but rather to consider the concerns that have been expressed on the ability of schemes to compulsorily transfer ex-spouse's pension credits.
Comment: The announcement and the one year delay is not a surprise. The hope must be that for many schemes relatively little will need to be done to ensure that transfer values are consistent with the new regime. But clearly where this is not happening already the trustees will need to go through a process of understanding and then owning the assumptions for transfer values and documenting this fact. It is not yet known in undertaking this, whether they will need to have regard to any future guidance from the Pensions Regulator or the extent to which they must disclose their deliberations and conclusions.

Pensions Tax Simplification – Newsletter 23

HM Revenue and Customs (HMRC) has published its 23rd simplification newsletter. The main points of interest are as follows:

- **Qualifying recognised overseas pension schemes (QROPS)** – HMRC announced in Newsletter 21 (see Pensions Bulletin 2006/44) that it was publishing online a list of those QROPS that have consented to the disclosure of their status, and that it would be updating the list monthly. HMRC now suggest that to avoid confusion about overseas schemes that might have the same name, a UK Administrator could ask the overseas scheme’s manager for a copy of the QROPS acceptance letter they should have received from HMRC.

The newsletter also states that HMRC has to grant QROPS status to any scheme meeting the statutory criteria, but this does not mean that the QROPS scheme is permitted to receive the transfer under its own domestic legislation. In particular, whilst a US scheme can apply to be a QROPS, it is HMRC’s understanding that US “qualified” retirement plans are not permitted to receive transfers from UK schemes.

- **Deferred annuity contracts** – HMRC intends to publish draft regulations removing the time limit, other than in certain circumstances, for contracts set up on or after 6th April 2006 to report their winding up.

- **Tracing a Pension Scheme Tax Reference (PSTR) number** – HMRC remind Scheme Administrators that in order to obtain a PSTR number, they should notify HMRC that they are the Scheme Administrator for their scheme. This can either be done online (see HMRC’s guidance to getting started online here) or else by sending paper form APSS151 to HMRC.

Refund option for voluntary national insurance contributions

The Department for Work and Pension (DWP) and HM Revenue and Customs (HMRC) have jointly announced that, following the publication of the pensions White Paper, certain individuals may be entitled to a refund of voluntary national insurance contributions.

Anyone making such contributions since 25th May 2006 could be entitled to a refund if they would have chosen not to make those contributions had they known about the Government’s proposals to amend the eligibility criteria for state pension entitlement.

The White Paper proposed that the number of qualifying years required for a full basic state pension be reduced to 30 for those reaching State Pension Age on or after 6th April 2010 (see Pensions Bulletin
2006/48). This proposal has now been included in the Pensions Bill which received its Second Reading in the House of Commons on 16th January 2007.

Financial Assistance Scheme

The Department for Work and Pensions has updated the area of its website dedicated to the Financial Assistance Scheme (FAS) following Parliament’s approval of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (see Pensions Bulletin 2007/01).

Amongst other things, the website contains detailed explanations of the eligibility conditions and proposed payments for those seeking financial help from the scheme and a series of guides aimed at pension scheme members, trustees and advisors.

Financial Reporting Council – levy on large pension schemes

The Financial Reporting Council has published a document about its levy on pension schemes with more than 1,000 members (see Pensions Bulletin 2006/42). It seeks to answer a number of questions that recipients may have such as the reason for the levy, how it has been calculated and the Council’s authority for its collection.

This Pensions Bulletin should not be relied upon for detailed advice or taken as an authoritative statement of the law. For further help, please contact David Everett at our London office or the partner who normally advises you.