

Bulletin for Pensions Managers

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Pensions news

TAXATION OF PENSIONS ACT 2014

The Taxation of Pensions Act 2014 has now received Royal Assent. The Act is available [here](#) and is accompanied by [explanatory notes](#).

The Act provides for:

- the new flexibilities in the way that individuals can take their DC benefits, including a statutory override to allow schemes to offer the new flexibilities regardless of any restrictions in their rules;
- changes to the annuity rules;
- a new DC-only annual allowance; and
- changes to the tax treatment of unused DC and drawdown funds on death.

Action

Schemes with DC benefits will need to consider the extent to which they wish to offer the new flexibilities to members.

Action

Whether or not schemes intend to offer the new flexibilities, they should start planning what changes will need to be made to scheme processes, communications and administration in light of the reforms.

Action

Schemes should also review the death benefit provisions in their rules in light of the changes to the tax treatment of unused DC and drawdown funds.

PPF: 2015/16 LEVY DETERMINATION

The PPF has published its 2015/16 [Levy Determination](#). The Determination remains broadly as published in draft in October 2014. The main changes relate to the exclusion of certain mortgages when calculating an employer's insolvency score. The PPF has also published revised standard form contingent asset documentation which must be used for all new contingent assets.

Key issues that schemes should note for the 2015/16 levy are:

- *Asset-backed contribution ("ABC") arrangements* – schemes must submit valuations of the arrangement on the following bases:
 - the insolvency value using the particular valuation approach required by the PPF; and
 - the fair value reported in the most recent scheme accounts.

The PPF will use the lower of the two values.

- *Parent company guarantees* – there is new certification wording whereby trustees will have to certify a fixed amount that the guarantor could pay.
- *Last man standing ("LMS") schemes* – there is a new requirement for schemes that list themselves as LMS on Exchange to confirm that they have taken legal advice confirming their LMS structure.

A list of key levy deadlines for the 2015/16 levy year can be found on page 32 of the [Levy Policy Statement](#).

Action

Schemes should ensure that they submit the necessary information and paperwork to the PPF by the relevant deadlines. Schemes with parent company guarantees and/or ABC arrangements and LMS schemes will need to factor the new certification/valuation requirements into their planning.

BULK TRANSFERS: ANNUAL ALLOWANCE CHANGES

An [order](#) came into force on 28 January 2015 which makes changes to improve the operation of the annual allowance (“AA”) regime. Among other things, it is intended to ensure that an underfunded “mirror image” bulk transfer does not have adverse AA consequences for transferring members.

The order also corrects a number of anomalies in the AA regime, e.g. making it clear that statutory uplifts to a deferred member’s GMP when the member postpones retirement do not themselves count towards the AA.

HMRC has also published draft [guidance](#) on the order’s provisions that, once finalised, will be incorporated into the RPSM.

Action

Schemes planning mergers should take the order’s provisions into account in their planning.

AUTOMATIC ENROLMENT: TECHNICAL CHANGES

The DWP has published a [consultation on draft regulations](#) making changes designed to further simplify the automatic enrolment process for employers. The proposed changes include:

- introduction of an alternative quality requirement for DB schemes;
- simplification of the employer information requirements; and
- creation of exceptions to the employer automatic enrolment duties in certain circumstances.

The consultation closed on 9 January 2015.

Action

No action currently required.

AUTOMATIC ENROLMENT: 2015/16 EARNINGS THRESHOLDS

The DWP has [confirmed](#) that, for the 2015/16 tax year, the automatic enrolment earnings trigger will remain at £10,000. The qualifying earnings band will be set at £5,824 – £42,385. A draft [order](#) to this effect has been laid before Parliament and will come into force on 6 April 2015.

Action

Employers subject to automatic enrolment in the 2015/16 tax year should check that payroll systems are updated to reflect the revised figures.

AUTOMATIC ENROLMENT: NEST CONTRIBUTIONS AND TRANSFER RESTRICTIONS

The DWP has [confirmed](#) that the annual contributions cap and transfer restrictions that currently apply to NEST will be removed from 1 April 2017. An [order](#) to this effect has been laid in draft before Parliament for approval.

Action

No action required.

AUTOMATIC ENROLMENT: LIST OF SCHEMES

The Regulator has published a [consultation](#) on proposals to publish a list of pension schemes on its website that are directly available to any employer for use in connection with its automatic enrolment obligations, irrespective of how many workers the employer has or how much the employer pays them. The consultation closed on 1 December 2014.

Action

No action required.

CORPORATE DIRECTORS: PROPOSED EXCEPTIONS TO BAN

Legislation currently going through Parliament will prohibit the use of companies as directors of other companies. BIS has published a [consultation](#) on proposed exceptions to the prohibition. The proposed exceptions would allow corporate trustees of occupational pension schemes to have other companies among their directors. The consultation closed on 8 January 2015.

Action

No action currently required.

SMALL PENSION AND TRIVIAL COMMUTATION: CODE OF PRACTICE ON INCENTIVE EXERCISES

The Incentive Exercises Monitoring Group has [confirmed](#) that, in its view, the Code of Practice on Incentive Exercises applies to one-off small pension and trivial commutation exercises.

Action

Schemes and employers considering one-off commutation exercises should bear the Monitoring Group’s view in mind and take appropriate legal advice on the application of the Code.

PENSION SCHEME FINANCIAL REPORTS: REVISED SORP

The Pensions Research Accountants Group has published its revised statement of recommended practice on pension scheme financial reports. The revised SORP replaces the version published in May 2007 and is effective for accounting periods starting on or after 1 January 2015.

Action

Schemes using the 2007 version of the SORP should adopt the new version.

ABOLITION OF CONTRACTING-OUT: DWP/HMRC GUIDANCE

The DWP and HMRC have published [guidance](#) for employers and trustees on the abolition of contracting-out.

The DWP has also [launched](#) a series of campaigns to raise public awareness of forthcoming pension reforms.

Action

No action required, but schemes and employers may find the DWP/HMRC guidance useful, and may wish to draw members' attention to the DWP campaign.

ABOLITION OF CONTRACTING-OUT: COUNTDOWN BULLETIN 4

HMRC has published [issue 4](#) of its Countdown Bulletin. This issue focuses on the Scheme Reconciliation Service in an attempt to publicise it and to encourage schemes to start submitting their GMP reconciliation requests.

Action

If they have not done so already, schemes should start work on GMP reconciliation. The deadline for registering to use the Scheme Reconciliation Service is 5 April 2016.

HMRC PENSIONS NEWSLETTER 66

HMRC has published [issue 66](#) of its Pensions Newsletter. This issue focuses on key aspects of the changes to be implemented by the Taxation of Pensions Act 2014, including a number of administration and PAYE points.

Action

No action required.

PENSIONS INDUSTRY STAKEHOLDER FORUM: OCTOBER 2014 MEETING MINUTES

HMRC has published the [minutes](#) of the 22 October 2014 meeting of the Pensions Industry Stakeholder Forum. Topics discussed included the Taxation of Pensions Bill, updates to the RPSM, dependants' scheme pensions, and the Scottish rate of income tax.

Action

No action required.

GUIDANCE GUARANTEE: FCA POLICY STATEMENT

The FCA has published a [policy statement](#) reporting on the main issues arising from its July 2014 consultation on the guidance guarantee (i.e. the free guidance that will be available to all individuals with DC benefits at retirement), and publishing near final standards and rules for the guidance guarantee.

Action

No action required.

AUTUMN STATEMENT 2014

The 2014 [Autumn Statement](#) did not include any major pensions-related announcements. However, it did confirm that, after informal consultation, the Government has decided not to extend the availability of pensions tax relief to those aged over 75.

Action

No action required.

OCCUPATIONAL PENSIONS (REVALUATION) ORDER 2014

This [order](#), which specifies the revaluation percentages to be used when revaluing deferred pensions using the final salary method, came into force on 1 January 2015.

Action

Schemes using the final salary method for revaluation should ensure that the percentages specified in the order are applied.

PENSIONS REGULATOR: FSD WARNING NOTICE

The Regulator has issued a warning notice of its intention to issue a financial support direction to Guinness Peat Group in connection with the Coats Pension Plan. The Regulator has already issued warning notices of its intention to issue FSDs to Guinness Peat in connection with two other pension schemes.

Action

No action required.

Pensions finance

HMRC: REVENUE AND CUSTOMS BRIEFS 43 (2014) AND 44 (2014)

HMRC has published two briefs in relation to VAT on pension scheme services. [Brief 43 \(2014\)](#) is HMRC's updated guidance on employer VAT recovery in light of the *PPG* decision (relevant for all schemes). [Brief 44 \(2014\)](#) is HMRC's new guidance on the charging of VAT on pension scheme services in light of the *ATP* decision (relevant for DC schemes).

For more information, please see our [client alert](#).

Action

Schemes and employers should take advice on any action that they may need to take in light of the briefs.

ANNUITIES: FCA THEMATIC REVIEW

The FCA has published the findings of its [thematic review](#) of annuities sales practices. The FCA found evidence indicating that firms' sales practices are contributing to consumers not shopping around and switching, and that at times, consumers are potentially buying the wrong type of annuity. Among other things, the FCA is asking the majority of annuity providers to look back at their non-advised sales since 2008 to see if customers bought the wrong type of annuity.

Action

No action required.

LEGACY DC SCHEMES: FCA REPORT ON CHARGES AND BENEFITS

The FCA has published the final [report](#) of the Independent Project Board on charges and benefits in legacy DC schemes. Among other things, the IPB found that over 30% of DC assets under management are subject to charges in excess of 1%. The FCA is writing to the provider of each scheme where savers are potentially exposed to high charges with a range of recommendations.

Action

No action required, but legacy DC schemes should expect to be contacted by the FCA.

Pensions litigation

ASSIGNMENT OF A S75 DEBT

The High Court has [held](#) that the s75 debt owed to a pension scheme was capable of assignment and that the assignment would be a reasonable exercise of the scheme trustee's powers. Assignment of the debt will allow the scheme to wind up prior to conclusion of the sponsoring employer's administration, thereby saving costs.

CALCULATION OF PPF COMPENSATION CAP

The High Court has [decided](#) that Article 8 of the EU Insolvency Directive does not require that every member of a pension scheme whose employer suffers an insolvency event must receive at least 50% of their accrued pension benefits.

BANKRUPTCY AND PENSION RIGHTS

The High Court has [decided](#) that a bankrupt individual's unexercised pension rights were not "income" and therefore could not be the subject of an income payments order. The court also held that the trustee in bankruptcy did not have power to bring the rights into payment. The decision leaves the law in this area unclear pending clarification by a higher court, as it conflicts with a contrary High Court decision in 2012.

HOLIDAY PAY AND OVERTIME

The Employment Appeal Tribunal has [held](#) that non-guaranteed overtime should be taken into account when calculating a worker's statutory holiday pay. The decision could potentially affect pensionable pay, depending on how pensionable pay is defined in scheme rules.

TRUSTEE LIABILITY FOR EMPLOYER DEBT

The Pensions Ombudsman has [decided](#) that the trustee of a DB scheme was not under an obligation to inform an employer of its potential employer debt obligations if an employee joined the scheme and that, as such, the trustee was not liable for the employer debt that arose when an employee joined and then subsequently left the scheme.

Mayer Brown events

If you are interested in attending any of our events, please contact Katherine Dixon (kdixon@mayerbrown.com) or your usual Mayer Brown contact. All events take place at our offices at 201 Bishopsgate, London EC2M 3AF.

- **Trustee Foundation Course**

24 February 2015

19 May 2015

15 September 2015

1 December 2015

Our Foundation Course aims to take trustees through the pensions landscape and the key legal principles relating to DB funding and investment matters, as well as some of the specific issues relating to DC schemes, in a practical and interactive way.

- **Trustee Building Blocks Class**

16 June 2015 – topic to be confirmed

17 November 2015 – topic to be confirmed

Our Building Blocks Classes look in more detail at some of the key areas of pension scheme management. They are designed to be taken by trustees who have already taken our Foundation Course.

- **Annual Pensions Forum**

29 April 2015

Our Annual Pensions Forum takes a look back at some of the key developments over the last 12 months and looks forward to expected developments in the coming year.

Please speak to your usual contact in the Pensions Group if you have any questions on any of the issues in this Bulletin.

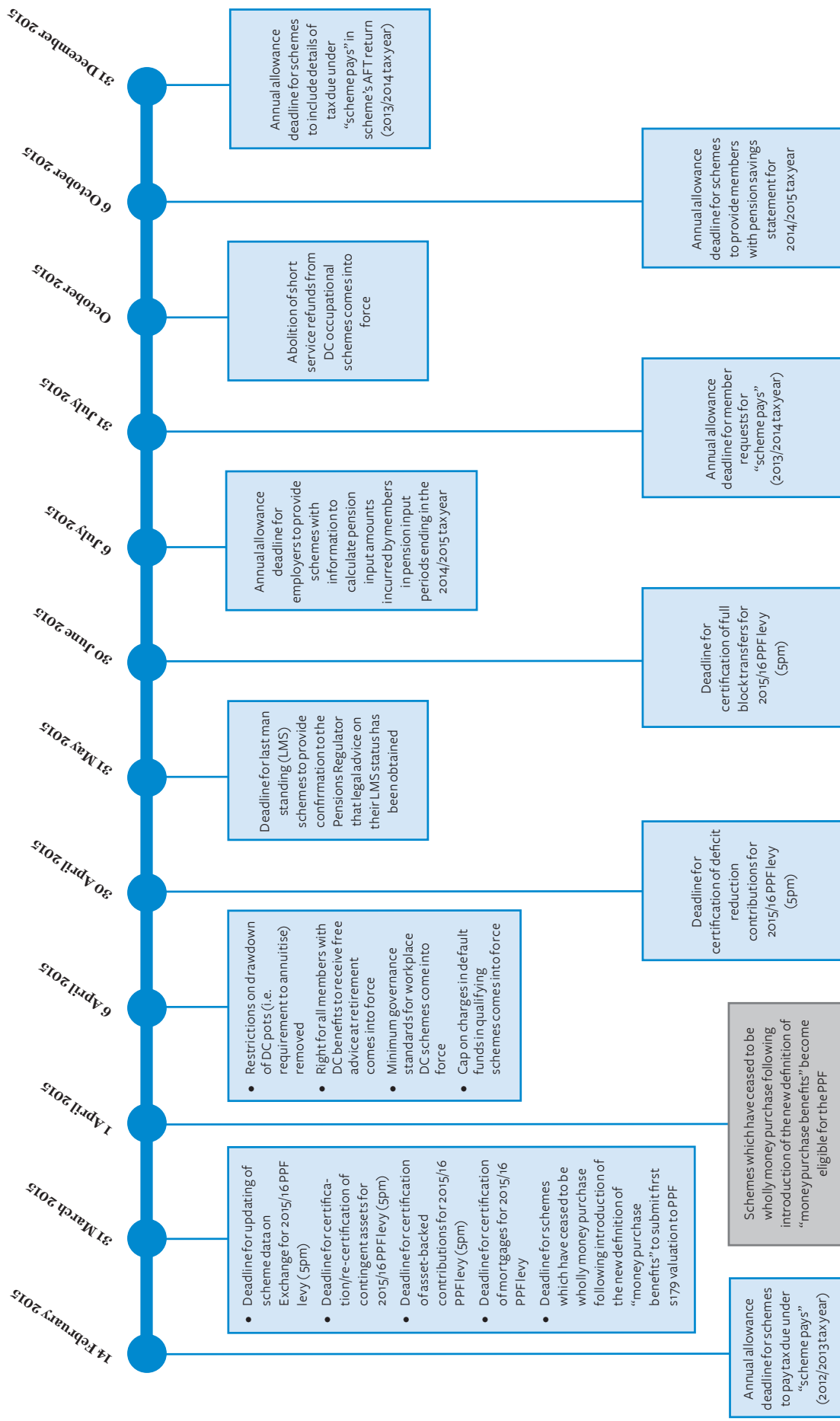
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Dates to note over the next 12 months



Key: Important dates to note For information

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