

Bulletin for Pensions Managers

Welcome to the November/December 2015 issue of our Bulletin for Pensions Managers. This issue covers developments to the end of December 2015.

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Pensions news

AUTUMN STATEMENT 2015

The pensions-related announcements in the Autumn Statement included the following:

- the Government will publish a response to its consultation on possible reform of the pensions tax system at Budget 2016;
- the Finance Bill 2016 will contain provisions to:
 - simplify the test that applies when a dependant's scheme pension is payable in respect of a member aged 75 or over;
 - align the tax rules on bridging pensions with DWP legislation; and
 - ensure that an IHT charge will not arise where a member designates funds for drawdown, but does not draw all of those funds prior to their death; and
- the scheduled increases to automatic enrolment minimum contribution rates in October 2017 and October 2018 will be delayed to April 2018 and April 2019 respectively to align them with the tax year.

Draft Finance Bill 2016 clauses have been published for consultation. The consultation closes on 3 February 2016.

Action

No action required.

2016/17 PPF LEVY DETERMINATION

The PPF has published its finalised Levy Determination for the 2016/17 levy year, together with accompanying documents such as its guidance on contingent assets and on asset-backed contribution (ABC) arrangements.

Among other things, the Determination confirms that, when recertifying a previously certified ABC arrangement, an updated valuation can be provided rather than a full valuation. The decision on whether an updated valuation is sufficient or whether a full valuation is required is to be made by the valuer.

Key 2016/17 levy deadlines

31 March 2016 (midnight)

- certification of ABC arrangements and contingent assets
- submission of mortgage exclusion certificates

29 April 2016 (5pm)

- certification of deficit reduction contributions

30 June 2016 (5pm)

- certification of block transfers

Action

Schemes wishing to certify/re-certify a contingent asset and/or an ABC arrangement for levy purposes should start planning what actions and documentation will be required well ahead of the 31 March deadline.

ABOLITION OF CONTRACTING-OUT – FURTHER CHANGES

An order has been laid before Parliament which makes further changes relating to the abolition of contracting-out. These include:

- preserving the legislative provisions that set out the reference scheme test on an indefinite basis for schemes that are/were contracted-out on a salary-related basis and contain a reference scheme underpin; and

- preserving the current effect of the anti-franking legislation for members who ceased contracted-out employment prior to 6 April 2016.

The changes will come into force on 6 April 2016.

HMRC has also published [issue 11](#) and [issue 12](#) of its Countdown Bulletin.

Action

Schemes which remain open to benefit accrual and are currently contracted-out should start considering what rule changes will be required to reflect the abolition of contracting-out.

DC GOVERNANCE – REVISED REGULATOR CODE OF PRACTICE

The Regulator has published a [consultation](#) on a draft revised [code of practice](#) on the governance and administration of DC trust-based schemes. The code has been revised to reflect the introduction of the DC flexibilities and the statutory requirements on DC charges and governance.

The revised code is about two-thirds of the length of the current code, and distinguishes more clearly between statutory requirements and the standards of conduct and practice expected by the Regulator.

In light of the new statutory requirement to produce a chair's governance statement, the Regulator no longer expects trustees to produce a voluntary governance statement.

The consultation closes on 29 January 2016. The Regulator will consult separately in spring 2016 on a series of guidance documents to support the revised code.

The Regulator has also updated its [FAQs](#) on trustee duties in relation to DC governance to provide further clarification on certain issues, including what the chair's governance statement is required to cover.

Action

No action required.

APRIL 2015 REFORMS – FURTHER LEGISLATIVE CHANGES

The DWP has published a [consultation](#) on draft regulations making a number of further changes to DWP legislation in light of the April 2015 reforms.

The proposed changes include introduction of a statutory requirement for trustees to provide generic

risk warnings to members taking flexible benefits (the Regulator currently recommends that trustees do this).

Amendments are also proposed to the pension sharing on divorce legislation, including:

- extension of the requirement to take independent financial advice on a transfer of safeguarded benefits to pension credit members who have been awarded safeguarded benefits in the scheme (the requirement would not apply in relation to the initial discharge of liability for a pension credit); and
- introduction of a requirement for schemes to write to a member's former spouse if the member applies to take their flexible benefits and those benefits are subject to an attachment order.

The consultation also includes a call for evidence on ways of simplifying the valuation of pensions with a GAR when determining whether those benefits exceed the £30,000 independent advice requirement threshold.

The consultation and call for evidence close on 15 January 2016.

Action

No action required.

FINANCE (NO 2) ACT 2015

This [Act](#) has received Royal Assent. Its pensions-related measures include introduction of the tapered annual allowance from 6 April 2016 and the associated alignment of pension input periods with the tax year.

Action

If they have not done so already, schemes and employers should consider writing to members to inform them of the forthcoming introduction of the tapered annual allowance.

INTEGRATED RISK MANAGEMENT – REGULATOR GUIDANCE

The Regulator has published [guidance](#) for DB schemes on the development and implementation of an integrated risk management (IRM) framework. It is designed to provide practical help, rather than being prescriptive, and includes key principles and questions for consideration. It sets out a five step process covering:

- initial considerations for putting an IRM framework in place;

- risk identification and initial risk assessment;
- risk management and contingency planning;
- documenting the IRM framework and decisions reached; and
- risk monitoring.

Action

Trustees of DB schemes should review the guidance and consider whether there are any changes they should make to their risk management framework.

AUTOMATIC ENROLMENT – 2016/17 EARNINGS THRESHOLDS

The DWP has published the proposed automatic enrolment earnings thresholds for the 2016/17 tax year:

- earnings trigger: £10,000; and
- qualifying earnings band: £5,824 – £43,000 (these figures equate to the lower and upper earnings limits for NI purposes).

Action

Employers should ensure that their payroll administration processes are updated to reflect these figures once they come into force.

FRS 102 – PROPOSED CHANGES

The FRC has published a consultation on draft amendments to FRS 102. The proposed changes are limited in scope, and relate only to financial institutions and retirement benefit plans. They are intended to simplify the preparation of disclosures about financial instruments, and to increase consistency with the disclosures required under EU-adopted international financial reporting standards.

The consultation closes on 31 January 2016. The changes will be effective for accounting periods starting on or after 1 January 2017, but entities can choose to adopt them earlier.

Action

No action required.

SECONDARY ANNUITY MARKET – CONSULTATION RESPONSE

The DWP and the Treasury have published a response to their call for evidence on creation of a secondary annuity market. The response confirms that the tax restrictions on the sale of annuity income streams for an upfront cash sum will be removed from April 2017.

The Pension Wise guidance service will be extended to cover those wishing to sell their annuities. Individuals holding annuities above a certain value will be required to take financial advice.

Separately, responsibility for Pension Wise has been transferred from the Treasury to the DWP with effect from 1 April 2016.

Action

No action required.

PENSIONS TAX MANUAL PUBLISHED

HMRC has published the Pensions Tax Manual (it had previously published a draft version). This replaces the Registered Pension Schemes Manual with effect from 6 April 2015.

In addition, HMRC has published issue 74 of its Pension Schemes Newsletter. This issue includes suggested wording for schemes to use to inform members about the 2016 lifetime allowance reduction.

Action

No action required.

STATE PENSION REFORM – TOOLS

The DWP has published a Q&A document and slides designed to help stakeholders explain the April 2016 state pension changes.

Action

No action required, but employers and trustees may find the tools useful if asked questions about the new state pension regime by employees/members.

Pensions finance

FINANCIAL SERVICES COMPENSATION SCHEME – PROPOSED CHANGES

The FCA has published a [consultation](#) on proposed changes to the Financial Services Compensation Scheme which would result in, among other things:

- trustees of occupational pension schemes of large employers providing money purchase benefits being eligible to claim; and
- trustees of small self-administered schemes of large employers providing defined benefits no longer being eligible to claim.

The consultation closes on 29 February 2016.

Action

No action required.

CORPORATE GOVERNANCE – PLSA GUIDELINES

The PLSA has published a revised [version](#) of its Corporate Governance Policy and Voting Guidelines.

Action

Schemes which follow the guidelines should start using the revised guidelines.

Pensions litigation

CONSTRUCTION OF SCHEME RULES – MISSING WORDING

The High Court has [granted](#) an order authorising the trustees of a pension scheme to administer the scheme on the basis of a construction of the scheme's pension increase rule which implied back into the rule wording which had been mistakenly omitted when the rules were consolidated. Without this wording, the rule did not make sense and it was not possible to determine what increases should be applied.

The order will protect the trustees against a claim that they are incorrectly administering the scheme, but will not bind beneficiaries who may wish to argue for a different construction of the rule.

AUTOMATIC ENROLMENT – “ORDINARILY WORKING IN THE UK”

The High Court has provided guidance on the meaning of “ordinarily working in the UK” for the purposes of the automatic enrolment legislation. The High Court's decision contradicts the interpretation given to the phrase by the Regulator. For more information, please see our [legal update](#).

Mayer Brown events

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

- **Trustee Foundation Course**

23 February 2016

17 May 2016

13 September 2016

6 December 2016

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**

14 June 2016 – topic to be confirmed

15 November 2016 – 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**

19 April 2016

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.

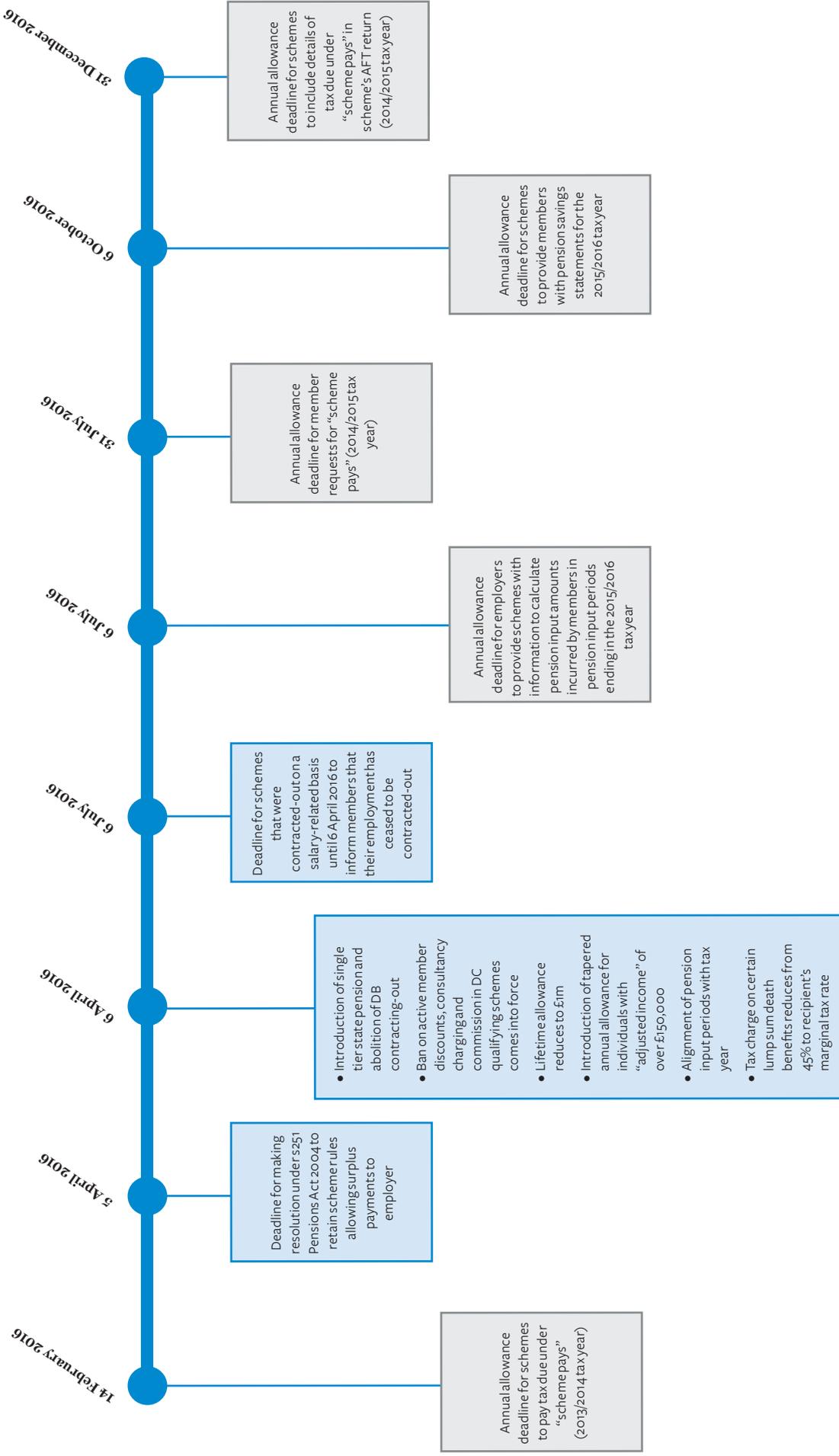
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Dates to note over the next 12 months



Key: Important dates to note For information

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