Lords Committee criticises DC schemes in ageing population report

The Government is woefully underprepared for an ageing UK population according to the first report, Ready for Ageing, of the House of Lords Committee on Public Service and Demographic Change and it concludes that one of the issues to be addressed is the poor performance of defined contribution (DC) schemes.

The Committee says that two cross-party commissions should be established within 6 months of the next General Election and should report back 12 months after that. One would work with employers and financial services providers to improve pensions, savings and equity release. The other would analyse how the health and social care system and its funding should change to serve the needs of the UK’s ageing population.

In relation to the DC pensions system, the Committee concludes that it is “not fit for purpose for anyone who is not rich, or who moves in and out of work due to bad health or the need to care for others”, and goes on to say that “the inadequate performance of DC schemes to date poses the greatest risk to our savings culture and the move towards re-invigorating pensions saving”. The Committee urges the Government to make its “defined ambition” plans concrete as soon as possible in order to make the DC market work.

Comment

There is no further news on the defined ambition agenda since the publication last November of the “Reinvigorating workplace pensions” report (see Pensions Bulletin 2012/49). But with this latest report from the Lords and the announcement that contracting out is to end one year earlier than planned, urgent attention needs to be given to this subject.

The RPI is no longer a national statistic

The UK Statistics Authority has confirmed that the Retail Prices Index (RPI) is now no longer classified as a “National Statistic”, on the grounds that it does not meet the requirements of the relevant Code of Practice for Official Statistics. The Authority has said it does not comply with the Code on two grounds:

- firstly, it is “not consistent with internationally recognised best practices”; and
secondly, because the Office for National Statistics (ONS) has chosen to “freeze” the formulae behind the RPI, it will no longer be subject to regular review and improvement, as required by the Code.

The downgrade follows a request from the UK Statistics Authority for a statutory reassessment of the RPI, following the National Statistician’s announcement in January 2013 that no change will be made to the formulae used in its construction (see Pensions Bulletin 2013/02). This re-assessment has now been done and the Assessment Report published on 14 March gives the full rationale for ceasing to class the RPI, together with its sub-indices and variants, such as the RPIX and the Pensioner Prices Index, as National Statistics.

The ONS will continue to produce the RPI, but will have to change how it is presented as well as including alongside it a statement that clearly explains its status to users. The Budget document published by HM Treasury on 20 March 2013 confirms that, for the time being at least, returns on, and new issues of, index-linked gilts will continue to be linked to the RPI.

Comment

The formula used to calculate the RPI will, in the long run, result in inflation figures significantly higher than those calculated using the formula underlying the CPI and the new statistic RPIJ (see Pensions Bulletin 2013/11), so which measure is used will significantly affect the costs of pension schemes and the benefits paid to pensioners.

Now that the RPI is no longer considered a National Statistic, those who wish to cease using it for pension purposes have a further argument to bolster their case. It is not fanciful to suggest that this latest development may presage a gradual move away from the RPI by those schemes that continue to use it.

PPF counts the cost of rejecting a D&B failure score appeal

The Deputy PPF Ombudsman has taken the unusual step of asking the Pension Protection Fund (PPF) to contribute £10,000 to trustees’ legal costs, as well as ordering it to recalculate a risk-based levy, following an appeal regarding a D&B failure score.

The trustees of the West of England Ship Owners Insurance Services Limited Retirement Benefits Scheme appealed because the D&B failure score awarded to the sponsoring company did not represent its actual insolvency risk. In the UK and some other countries D&B considers certain publicly available information, including publicly filed accounts, when setting D&B failure scores. The West of England trustees were unaware that in Luxembourg, where the sponsoring company publicly files its accounts, D&B did not use such accounts unless they were passed directly to it.
The Deputy PPF Ombudsman dismissed the PPF’s claims that they had to use D&B’s originally supplied failure score, apparently based on very little recent information and which was later revised, in the levy calculation. The Ombudsman also held that the trustees could not be expected to know the differences in D&B methodology in different countries, particularly as they were relatively unpublicised by the PPF. A second part of the appeal relating to a contingent asset that had not been recertified, was dismissed.

In addition to recalculating the levy, the trustees requested their £89,000 legal costs be paid by the PPF. For the first time the Deputy Ombudsman showed sympathy with this, but given part of the appeal failed and some costs were incurred outside of the Deputy Ombudsman’s remit, he ordered the PPF to pay £10,000 towards the expense.

Comment

The PPF Ombudsman has started to find against the PPF slightly more in recent cases, and it is good to see a common sense approach being taken here. Some harsh words used by the Ombudsman in this latest determination might encourage the PPF to take a more liberal approach on appeals when it is clear to all concerned that, through no fault of the trustees, the levy has been calculated on materially incorrect data.

PPF gives ground on last man standing schemes

The Pension Protection Fund (PPF) has changed its mind on certification of company guarantees for so called “last man standing” schemes.

This small but significant change is in relation to certifying a PPF-compliant company guarantee for the 2013/14 PPF levy season where the guarantor also participates in a scheme where all employers must fail before PPF assessment is triggered.

On 22 February the PPF said in its observations published on that date that the guarantor must be assumed to become insolvent before assessing the value of the guarantee (see Pensions Bulletin 2013/09). The PPF has now published an updated version dated 15 March in which it says that it will recognise contingent assets where it considers it is likely that the guarantor could meet the deficit of the other employers (assumed to be insolvent) whilst still continuing to trade. Two new FAQs (numbers 6 and 7) provide further information on this change of treatment.

Comment

This complete about turn is good news. The PPF’s previous insistence that all employers participating in a last man standing scheme (including the guarantor) should be considered insolvent was too narrow an interpretation of the published contingent asset guidance with the potential to create some serious anomalies.
Schemes that utilise such guarantors should now urgently revisit their submissions.

“Trivial commutation” payments no longer subject to emergency tax code

Tax legislation has been changed so that the basic rate tax code is applied to trivial commutation and other similar payments from registered pension schemes rather than the emergency tax code. This change is made from 6 April 2013 by the Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (SI 2013/521) and follows a consultation which ended earlier in the year (see Pensions Bulletin 2012/49).

Comment

As we said in November this should particularly benefit recipients of such payments who are on moderate or low incomes and should also simplify the taxation process.

The National Employment Savings Trust (Amendment) Order 2013

Amendments have been made to the legislation governing the National Employment Savings Trust (NEST) to reflect the experiences of its first few months of operation and to try to solve some “teething problems”. The final version of the National Employment Savings Trust (Amendment) Order 2013 (SI 2013/597) closely follows the draft Order made available for consultation last November (see Pensions Bulletin 2013/03 and Pensions Bulletin 2012/45).

PPF “tidying-up” regulations finalised

The Pension Protection Fund, Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2013 (SI 2013/627) have been made following consultation on the draft version over the winter (see Pensions Bulletin 2012/52).

Alongside this the Pensions Act 2011 (Commencement No.4) Order 2013 (SI 2013/585) has been made which implements some changes relating to the postponement of compensation from the Pension Protection Fund (PPF).
Parliament confirms up-rating of social security benefits from April

Parliament has approved an Order confirming the rates of various social security benefits from April. In particular, the Social Security Benefits Up-rating Order 2013 (SI 2013/574) sets the Basic State Pension at £110.15 per week for a single pensioner and £176.15 per week for a pensioner couple.

PPF publishes guidance on FAS overpayments

The Pension Protection Fund (PPF) has published a short guidance note explaining what the PPF will do in the relatively rare occasions where members of the Financial Assistance Scheme (FAS) receive more money than they are entitled to.

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.

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