



## Pensions Newsletter No 2

### **PENSIONS and CIVIL PARTNERSHIP ACTS 2004**

The Pensions Bill and Civil Partnership Bill both received Royal Assent on 18 November 2004. This Newsletter briefly summarises the new legislation and its impact on pension schemes.

#### **PENSIONS ACT 2004**

The main aim of the Pensions Act 2004 is to improve protection of members' benefits. The Act itself contains very little detail. Indeed much of its provisions will be dealt with by regulation or codes of practice. These are expected to start to emerge shortly.

The Act's provisions are due to be introduced over a period starting from April 2005. The provisions are wide ranging for private sector schemes. However for public sector schemes the Act's impact is limited.

The following provides a brief summary of the main provisions of the Act. Many of these have no relevance for the public sector. Those of relevance are shown in [blue](#).

#### ***Pensions Regulator***

The Act establishes a new Pensions Regulator to replace Opra. The Regulator will have wider powers than Opra and its objectives have been set:

- to protect member benefits under occupational and personal pension schemes
- to reduce the risk of compensation being payable from the PPF
- to promote and improve understanding of good administration of work based pension schemes

#### ***Pensions Protection Fund (PPF) and Financial Assistance Scheme (FAS)***

The Act introduces the PPF which for the first time offers members of private sector final salary pension schemes some protection of benefits in the event of employer insolvency. The PPF is to cover schemes starting to wind up after April 2005 and will cover pensions already in payment in full and 90% of other benefits, but subject to a cap initially of £25,000 pa at age 65. The PPF is to be funded by a levy on schemes eligible for its protection. The levy will be mainly 'risk based' (at least 80%) taking account of the likelihood of a scheme needing to rely on the PPF.



## ***Pensions Protection Fund (PPF) and Financial Assistance Scheme (FAS) (cont)***

The Act includes some moral hazard clauses which are intended to stop employers dumping scheme liabilities on the PPF. The impact of these clauses remains to be seen. There has been much comment that they will have a significant impact on corporate take-overs and trade sales.

The FAS was added to the Act as a late amendment. It forms a mini PPF for schemes not covered by the main PPF due to timing. Eligibility for the scheme and the level of benefits covered remains to be set by regulation. The FAS is to be Government funded and protection offered is to be tailored to the money available (£400m).

### ***Scheme Funding***

The Act replaces the much criticised MFR with a 'scheme specific funding requirement' for final salary schemes. Schemes will need to have 'sufficient and appropriate assets to meet their liabilities'. The Act contains only an outline of the requirements and the detail remains to be prescribed by regulation. Many of the principles of the MFR regime remain – regular actuarial valuations, schedules of contributions, trustee/employer negotiation. A significant difference is that the Regulator will be able to get involved where the trustees consider it necessary.

### ***Miscellaneous provisions***

- Schemes will be required to give benefit statements showing scheme and state entitlements combined
- The member nominated trustee (MNT) provisions change – to include pensioner members in the nomination process. There is also a provision to increase the proportion of MNTs from  $\frac{1}{3}$  to  $\frac{1}{2}$  at some later date. The process for implementing MNTs becomes less prescriptive
- Internal dispute procedures will be simplified
- Standards of knowledge and understanding expected of trustees defined
- Whistle blowing obligations extended to apply to employers and others involved in scheme administration
- Limited price indexation (LPI) cap reduced to 2.5% from the current 5% for future service. LPI requirement to go with retrospective effect for all money purchase arrangements
- Limited TUPE protection of pension rights to be extended to private sector transactions



## ***Miscellaneous provisions (cont)***

- The rules for making modifications to accrued rights within schemes are to be made less onerous
- Early leavers with between 3 months and 2 years service will have to be offered a choice between a transfer value and a refund of their own contributions
- Compulsory provision of an AVC facility is to be scrapped
- Provisions for multi-employer schemes will base employer debt on the buy out cost for withdrawing employers unless liabilities are transferred or financial support arrangements are otherwise agreed. Regulations will also specify how liabilities are to be split between employers
- Paid paternity and adoption leave will have to be treated in the same way as paid maternity leave for pension scheme purposes
- Employers to be required to consult on future changes to pension provision
- The latest age from which deferred benefits must be paid for schemes with a normal pension age below 60 is to increase to 65
- The Act introduces a regulatory framework enabling an occupational pension scheme located in one EU state to accept contributions from an employer located in a different EU state
- Certain provisions for State pensions will apply from April 2005 – there will be no limit on the period of deferral of state pension and the increase applied in respect of a period of deferral will rise from 1/7% pw to 1/5% pw. The increments due to deferral may be taken in lump sum form provided the deferral period is at least one year.



## **CIVIL PARTNERSHIP ACT 2004**

The Civil Partnership Act 2004 has implications for pension schemes. These implications apply to both the public and private sector, although the provisions differ slightly. Many of the details will be covered by regulations. The implementation date has yet to be announced but is expected to be in Autumn 2005.

Under the Act same sex couples will gain the right to be recognised in the same way as married partners subject to their formally registering their relationship. The registration creates a 'civil partnership' which will be recognised in law for example when adopting a child, owning property and for pension purposes.

For pension schemes this means that from some future date civil partners will have to be provided with dependant benefits on the same terms as spouses for future deaths and based on future service after that date.

The Act will also have some retrospective effect for pension schemes. The extent of retrospection differs for public and private sector schemes.

From the implementation date unfunded public service schemes and LGPS will be required to provide dependant benefits to civil partners based on all service after 1 April 1988. This applies to all categories of member active, deferred and pensioner.

Both private sector and other public sector schemes will be required from implementation to provide dependant benefits to civil partners in respect of all GMP entitlements accrued from 6 April 1988.

The retrospective nature of this legislation will have an impact on accounting figures in the year of introduction. The cost of implementation of the retrospective entitlement must be shown as a past service cost in profit and loss accounts under FRS17, IAS19 and resource accounting.