LEGISLATIVE UPDATE

AUGUST 2014

Our Legislative Updates help to keep you informed about recent changes to pensions law, regulation and guidance, which may have an impact on you, your pension scheme or your scheme members. Keeping up to date on these changes can help you when reviewing your pension arrangements, so that you can be confident that your pension scheme will continue to meet your needs and is capable of delivering value for money and a good outcome for your employees.

SCOTTISH WIDOWS

AUGUST 2014

AUGUST 2014

Legislation (www.legislation.gov.uk)

FINANCE ACT 2014

The key provisions to note in this Act are:

WITHDRAWAL ARRANGEMENTS:

- From 27 March 2014, the annual cap on withdrawals for members with capped drawdown increased from 120% to 150% of a comparable annuity and the minimum income requirement for flexible drawdown fell to £12,000.

SMALL LUMP SUMS:

- The maximum amount of a trivial commutation lump sum has been increased to £30,000 from £18,000 and the amount of a small stand-alone lump sum has risen from £2,000 to £10,000.

PCLS:

- If members take a Pension Commencement Lump Sum (“PCLS”) from a money purchase arrangement between 19 September 2013 and 6 April 2015, they do not have to take the corresponding pension within six months but it must be taken before 6 October 2015. (See below in Tax)

LIBERATION:

- Powers for HMRC to address pension liberation, including additional grounds on which registration can be refused, or schemes de-registered.

INDIVIDUAL PROTECTION 2014:

- Provisions on Individual Protection which will give individuals a personal lifetime allowance based on the value of their pension savings on 5 April 2014, subject to an overall limit of £1.5 million.

PENSIONS ACT 2014

The Act (most of which is not yet in force) covers a wide variety of issues, including:

- A 30 day vesting period for members of trust-based occupational pension schemes entitled to money purchase benefits only.
- Introduction of the single-tier state pension and the abolition of salary-related contracting out together with transitional provisions for existing state benefits.
- Increasing state pension age to 67 in 2028.
- Regulation making powers for automatic “pot-follows member” transfers. This is intended to apply to money purchase benefits where the pot is less than £10,000 and which accrued after a date to be specified. Trustees will need to try and find out whether a member has transferable benefits and, if so, request their transfer. Members will either be able to opt-out of or have to consent to such transfers.
- Auto-enrolment changes including: preventing hybrid schemes using DB transitional periods for members with no DB accrual; alternative quality requirements for DB schemes; and a regulation making power to allow exceptions to the employer auto-enrolment duty.

RESPONSE TO CONSULTATION ON PENSION FLEXIBILITY

Government (www.gov.uk)

In March this year, the Government announced proposals to introduce greater flexibility in the pension landscape by allowing DC members to take their whole DC pot as a cash lump sum from April 2015 – see May's legislative update.

The Government has now provided more details on how these proposals will work:

TRANSFERS:

To ensure that all DC members are able to make use of the new flexibilities (as schemes will not have to offer them), proposals will extend the statutory right to a transfer from a trust-based occupational pension scheme up to the scheme's normal retirement age (as opposed to one year before that age).

The Government had consulted on the possibility of preventing DB to DC transfers but has decided to permit them (subject to conditions). Transferring trustees will need to ensure that members with pension savings in excess of £30,000 take financial advice before making a DB to DC transfer. Generally, the cost of this advice will be met by members except where a transfer is part of an employer-led incentive exercise, when it will be met by the employer.

MINIMUM PENSION AGE:

This will rise from age 55 to 57 in 2028 and remain 10 years below state pension age.

GUIDANCE GUARANTEE:

There will be an obligation on trustees to signpost DC members approaching retirement to independent third party guidance. The providers of the guidance will be monitored by, and the content must comply with, standards set by the Financial Conduct Authority. It appears that the guidance will be funded by a levy on regulated financial services firms rather than occupational pension schemes or employers having to meet the cost.

DRAFT TAXATION OF PENSIONS BILL 2014

The Bill will make legislative changes necessary to implement DC flexibility.

Features to note are:

DRAWDOWN:

There are detailed provisions in relation to new flexi-access and dependant's flexi-access drawdown arrangements (drawdown without limits) and the treatment of existing drawdown arrangements under the new regime.

LUMP SUMS FROM DC POTS:

Uncrystallised funds pension lump sums (UFPLS) will be a new type of authorised payment. A UFPLS can generally be paid from a money purchase arrangement to members from age 55. There is no limit on the amount that can be paid and the member will be liable to income tax at their marginal rate on 75% of the UFPLS, with the remaining 25% paid tax-free. There are restrictions on the availability of a UFPLS for members who have transitional protections under the Finance Act 2004.

ANNUAL ALLOWANCES:

Where a member has accessed money purchase savings under the new arrangements, a £10,000 annual allowance may apply to future money purchase savings. Members will retain a defined benefit annual allowance of up to £40,000 (less the value of any money purchase savings). Unused annual allowance from earlier years cannot be used to increase the £10,000 annual allowance.

OVERRIDE:

The Bill contains a statutory override which allows the trustees to pay a UFPLS; drawdown pension or purchase a short term annuity "despite any provision of the rules of the scheme (however framed) prohibiting the making of the payment."

OTHER:

The age at which schemes can pay a trivial commutation lump sum or small lump sum is reduced from 60 to 55 and a trivial commutation lump sum will only be payable from a DB arrangement. The limit for trivial commutation lump sum death benefits will rise to £30,000.

PENSIONS FLEXIBILITY FROM 27 MARCH 2014: DRAFT GUIDANCE

Tax (www.hmrc.gov.uk/pensionschemes/index.htm)

HMRC has issued draft guidance on the temporary time limits which apply to PCLSs (discussed above) in advance of April 2015. The key points in the guidance are:

- Members taking a PCLS before 6 April 2015 do not have to take the associated pension entitlement within 6 months, but must take it before 6 October 2015.
- Members will be able to take their remaining entitlement as a lump sum (if the scheme permits) and they do so before 6 October 2015. Where the value of the pension pot has gone up between taking the PCLS and the pension, no additional PCLS can be taken.
- Where a PCLS was paid on or after 19 September 2013 but before 6 April 2015 (or before 19 September 2013 where a lifetime annuity contract is entered into, and that contract is cancelled on or after 19 March 2014) and that PCLS is repaid to the scheme, it will be treated as never having been paid.
- Under the transitional provisions, where there is a recognised transfer, the PCLS will remain an authorised payment provided that the pension is paid from the receiving scheme before 6 October 2015 (and certain other conditions are satisfied). There are also provisions on what scheme administrators need to do when making such transfers.
- Where a member has reached age 60 and took a PCLS before 27 March 2014, but would meet the requirements for a trivial commutation lump sum using the new £30,000 limit, they can take the rest of their pension savings as a lump sum. The PCLS will be treated as a special transitional lump sum (also tax free). There are similar provisions where the member falls into the small pot provision if the small pot lump sum is taken between 6 July 2014 and 6 April 2015.
- There is also guidance on the position of members with rights to protected lump sums and various new reporting requirements.

UPDATE ON PENSIONS LIBERATION

Regulator (www.pensionsregulator.gov.uk)

The Regulator has updated its “Scorpion guidance” on pension liberation. It says that around £495m of assets are now known to have been transferred into “scams” but it suspects that the true amount is significantly higher as many are not reported to it.

The Regulator is asking all trustees and administrators to include the pension scams scorpion leaflet in their annual benefit statements and when issuing transfer packs to members.

Scottish Widows plc. Registered in Scotland No. 199549. Registered Office in the United Kingdom at 69 Morrison Street, Edinburgh EH3 8YF. Telephone: 0131 655 6000.

Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Financial Services Register number 191517.

54636 (AUG) 10/14