



Punter Southall
DC CONSULTING

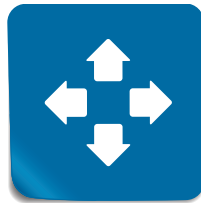
pensionsbulletin

Quarterly update · February 2012



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2012: already shaping up to be another busy year for pensions

The pace of pensions consultation and law-making has stepped up another gear in the last few months, beginning with the Autumn Statement on 29 November. Both the Chancellor of the Exchequer and the Pensions Minister, Steve Webb, seemed to have been clearing their in-trays before the end of last year.

Changes to auto-enrolment timetable

In the run-up to the Autumn Statement, with most employers being forced to tighten their belts, there had been much speculation as to whether employer duties would be postponed, either generally or at least for small businesses.

On the eve of the Chancellor's Statement, the Pensions Minister finally put an end to these rumours by announcing that small businesses are to be given an additional year to auto-enrol eligible employees into a qualifying pension scheme. The announcement means that the earliest staging date for employers with fewer than 50 employees will now be May 2015, instead of April 2014. Auto-enrolment for large employers will still go ahead as planned from October 2012, with businesses with between 250 and 3,000 employees put on hold temporarily before confirmation was given on 25 January 2012 by the DWP that the staging dates would remain as planned and only those with < 50 employees would be amended as proposed. The table below highlights the new staging dates:

DC Survey 2012

The impact of auto-enrolment

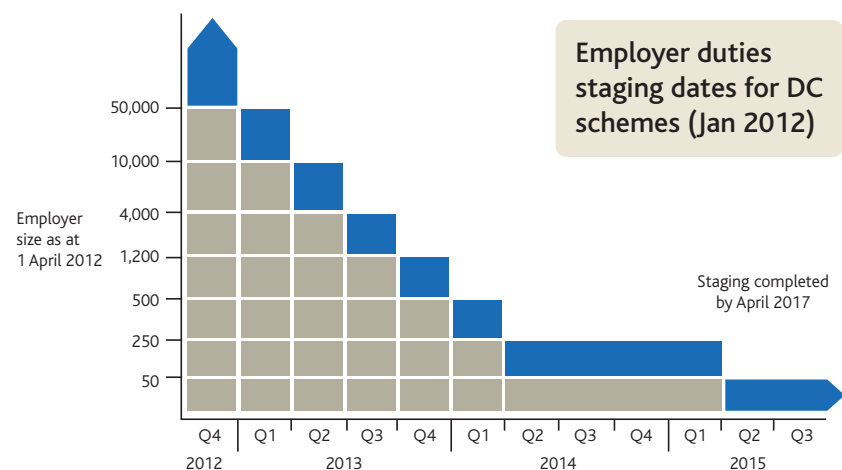
Punter Southall DC Survey now available



For more information and to request your copy email:

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Employer duties staging dates for DC schemes (Jan 2012)





Speed read

- **Increase in state pension age from 66 to 67 to be brought forward to April 2028**
- **Auto-enrolment for employers with fewer than 50 employees delayed until May 2015**
- **Earnings trigger for auto-enrolment proposed to be £8,105, whilst qualifying earnings band to be set at £5,564 and £39,853 for 2012/13**
- **From April 2012, people aged 60 or over with personal pension pots of £2,000 or less will be able to take two such pots in their lifetime as cash**
- **Short service refunds under DC occupational schemes to be abolished**
- **Consultation published on improving the transfer process and dealing with small pots**

In addition to the timescale changes, employers using a qualifying defined contribution (DC) scheme for auto-enrolment purposes will see their initial minimum contribution levels (1% for employers and 2% in total) remain in place until all employers have begun auto-enrolment.

On the subject of contribution levels, shortly before the Christmas break, the Government began consulting on the auto-enrolment earnings thresholds for 2012/13. As expected, the minimum earnings trigger for auto-enrolment will be £8,105, to align with the personal tax threshold. The lower and upper qualifying earnings bands will be set at £5,564 and £39,853 respectively, with the lower level aligning with the lower earnings limit for the payment of National Insurance contributions.

The Autumn Statement

Some had feared that the Chancellor of the Exchequer would not be able to resist the temptation to tinker with the pensions tax regime yet again. However, for once, the Autumn Statement was refreshingly 'light' on pensions, with most of the pensions-related announcements representing the latest stage of development for processes which began some time ago. State pension age will rise from 66 to 67 over a two-year period ending in April 2028 – some eight years sooner than the previous 2034-2036 timescale. It's highly likely that the increase to age 68 will be brought forward from 2046, too. Draft legislation was also issued to curb excessive employer tax relief on asset-backed pension contributions with immediate effect.

With regard to investments, whilst the Government's decision to encourage pension fund investment in infrastructure projects may be welcome, less well-received was its decision not to issue any CPI-linked gilts in 2012/13. This announcement follows an earlier consultation by the Debt Management Office which considered the likely demand and cost-effectiveness of issuing such gilts.

Small personal pension pots

With the introduction of employer duties now less than 9 months away for the largest employers, one area of particular concern has been the issue of so-called 'small pension pots'. Both HM Revenue and Customs (HMRC) and the Department for Work and Pensions (DWP) are currently consulting on possible changes to the legislation in this area.

Currently, trivial commutation of lump sums of £2,000 or less is possible under trust-based schemes (even where total benefits across all schemes exceed £18,000) but not under contract-based schemes. Whilst the Autumn Statement was silent on this issue, HMRC has subsequently announced that, from April 2012, they will allow people aged 60 or over with small personal pension pots of £2,000 or less to withdraw a maximum of two such pots as cash during their lifetime instead of having to convert them into an annuity. This change will put personal pension arrangements on a virtually level playing field with occupational pension schemes, which have been able to pay lump sums of £2,000 or less as authorised payments since December 2009 (although there is no restriction on the number of pots of up to £2,000 that can be taken under occupational pension schemes).

This change to the lump sum regime is not the only one being given ministerial time. As part of its pre-Christmas in-tray clearing process, the DWP began a wide-ranging consultation on measures to prevent a proliferation of small pension pots following the onset of auto-enrolment. It is considering options to amalgamate small pension pots, which is vital considering that the average person works for 11 different employers over the course of his career and may therefore build up a large number of small pension pots. The options include improving the current framework by simplifying the transfer process or introducing automatic transfers of small pots from job to job or to a central aggregator scheme.

The DWP has also been increasingly concerned that employers and providers may opt to establish trust-based schemes instead of contract-based schemes to exploit regulatory differences between the two. It is therefore proposing to abolish short service refunds under DC occupational schemes. However, it is imperative that this is addressed in tandem with the consultation on small pension pots, since the abolition of short service refunds on its own would automatically create many more small pension pots, the exact antithesis of what the Government aims to achieve.

QROPS (Qualifying Recognised Overseas Pension Schemes) – A tool but not a crutch for International employees!

In the International benefits arena, there has been an increasing number of questions raised about QROPS. The two principal catalysts for this are: the consideration of auto-enrolment strategies for Foreign Nationals in the UK, and draft legislation published last November tightening the rules around QROPS.

More information around the issues and solutions for Foreign National and UK expat workers in relation to auto-enrolment will be covered in our International Benefits breakfast seminars this spring.

Where Foreign National employees are building retirement benefits in their employers' UK pension scheme, QROPS can be a useful way of transferring UK benefits overseas to help them to retire abroad. This can enable them to release themselves from unnecessary UK taxation and take advantage of local pension regimes?. However, they should not be used in a blanket approach as the apparent benefits, when pursued without the appropriate advice, can also result in increased and more

complex taxation, irreversible benefit positions, and a very costly benefit accumulation environment.

What are QROPS?

QROPS are Qualifying Recognised Overseas Pension Schemes which meet certain HMRC rules.

In brief, these are that:

To be regarded as a QROPS the scheme must be regulated as a pension scheme in the country it is established or if no such regulated body exists the following conditions need to be met:

- (a) the scheme is established in a Member State of the European Union, Norway, Iceland or Liechtenstein; or
- (b) the scheme rules provide that at least 70% of the funds transferred must be used to provide the individual member with an income for life payable no earlier than the normal minimum pension age

Although QROPS have to comply with these rules not all schemes that comply with these rules are QROPS.

When might a QROPS be relevant?

An individual leaving the UK may need more pension flexibility and with a QROPS they can benefit from:

- The pension laws of the jurisdiction in which the QROPS provider is based.
- Some protection from currency conversion fluctuations as many QROPS can accept contributions and make payments in more than one currency.
- Removal from effects of UK income taxes, particularly the 55% exit tax in drawdown.

QROPS are intended for use by individuals who have permanently left (or intend to permanently leave) the UK. The implication of the proposed new rules is that a member who, for whatever reason, is tax resident in (or returns to) the UK may be subject to tax penalties.

There will be a Lifetime allowance test on transferring benefits into a QROPS, which could mean if the value of the pension at the time of transfer is above the lifetime allowance a tax charge could apply.

When can UK pension rights be transferred outside the UK into QROPS?

They can be transferred either before the individual commences benefits or once they have come into payment.

Are there any restrictions on benefits that can be taken from a QROPS?

Yes. Currently, a payment within 5 years of the member becoming non-resident in the UK is reportable to HMRC. This is to be increased under the new legislation to 10 years and based from the time the benefits are transferred out of the UK. The payment remains subject to the member payment provisions that apply to registered pension schemes. Generally, this means that benefits being paid by the QROPS in this period, in relation to a member's UK tax-relieved scheme funds, will have to meet the requirements that would apply to a UK Registered pension scheme. In addition, to meet the requirements to be a QROPS the scheme will have had to confirm that its scheme rules provide that at least 70% of the member's transfer fund will be designated to provide an income for the member.

In all cases the rules of the local jurisdiction have to be considered as they may be more restrictive than the UK.

It is easy to move pension benefits away from the UK?

It is not as easy as transferring within the UK. The proposed new legislation in theory helps to protect individuals who do not appreciate the complexity and implications of transferring retirement benefits and have not been directed to the appropriate advice before moving their benefits.

As well as the tightening of the rules around the use of QROPS, new scheme members will need to complete a separate form acknowledging that they understand the tax implications of the transfer. They will have to give this form to the UK pension provider prior to the transfer to the QROPS being made.

In particular the jurisdiction of the QROPS must be appropriate for their needs and they need to understand clearly the potentially material fiscal ramifications of transferring their benefits away from the UK.

Does the draft legislation affect QROPS in the offshore centres?

Yes. The legislation implied that these jurisdictions will no longer qualify to receive QROPS status.

However, on 27th January this year, the Guernsey Association of Pension Providers (GAPP Guernsey) welcomed the proposals of the States of Guernsey "to

amend its income tax laws on pensions saving to meet the revised UK requirements for Qualifying Recognised Overseas Pension Schemes (QROPS) expected to come into effect on 6th April of 2012".

Guidance for employers

With increasing mobility, Foreign National employees make up an increasing proportion of the UK workforce, whilst many UK employers now employ people based outside the UK. Many companies severely underestimate this figure.

Consideration should be given to the non-UK employees in terms of information and support in relation to their benefits. It is worth reviewing benefit literature to ensure it is not misleading for those likely to retire outside the UK. Many Foreign National employees have retired overseas thinking that they will receive a tax-free cash sum from their pension arrangements when, depending on where they retire, this may not be the case.

The proposed new QROPS legislation is largely welcome as it provides a more level playing field for the transfer of benefits outside the UK with more defined rules and increased protection for individuals. With the increased awareness of QROPS as a potential solution for Foreign National employees, there may be additional questions being directed at UK pension helplines. It may be worth checking whilst clearly not able to give advice that your scheme's current UK helpline can help with generic International queries.

Whilst the decision to transfer to a QROPS clearly falls into the realm of employee responsibility, UK scheme trustees should be aware of the new administration and information requirements when processing transfers to QROPS. Employers should exercise caution before appearing to advocate QROPS as the answer to moving UK benefits overseas.



Publications round-up

If you have missed any of our publications over the last quarter, you can find them on our website:

www.puntersouthall.com

Briefing notes:

Expectations around DC governance

A briefing note aimed at trustees of DC schemes, clarifying the behaviours the Pensions Regulator expects from trustees to improve levels of governance in order to achieve good member outcomes.

Pensions Bill 2011 receives Royal Assent

A summary of the main pensions-related provisions included in the Pensions Act 2011, in particular amendments changing the definition of money purchase benefits and completing the switch from RPI to CPI.

News alerts:

Timetable for auto-enrolment to be altered for some employers

An alert on the Pensions Minister's announcement that auto-enrolment for smaller firms will be delayed until May 2015.

Countdown to employer duties:

NESTwatch

A close look at NEST and its role in the future of workplace pension provision. A copy of NESTwatch can be found in the "Insights and views" section of our website, click on the Employer Duties Countdown guide.

Timetable of employer staging dates

This temporary update reflects the announcement of the delay to auto-enrolment for small employers; an updated timetable will be provided once full details are known.

High earners & contributors survival guide:

We are producing additional survival guides on some of the more technical aspects of the new taxation regime. If you would like to see any of these notes, please email sarah.tolson@puntersouthall.com for a copy.

HMRC provides further detail on fixed protection

A summary of the key points in HMRC's Newsletter 50, which sets out the circumstances in which it is possible for fixed protection to be lost.

HMRC revises its interpretation of the carry-forward rules

An update on HMRC's revised interpretation of the way in which unused annual allowance from the three tax years prior to 6 April 2011 can be carried forward.

Further notes will be available early in 2012, on topics including the 'carve-out' from the annual allowance for deferred members, the valuation of benefits for the purpose of the annual allowance and the new 'scheme pays' provisions.



Other recent developments

Hybrid schemes

The Pensions Regulator (TPR) has issued guidance to help trustees understand some of the risks inherent in hybrid pension schemes (i.e. those combining defined benefit (DB) and DC benefits). Amongst the main areas of concern highlighted in the guidance is a lack of governance, with trustees spending insufficient time considering the DC element of their hybrid scheme and failing to provide statutory money purchase illustrations and the open market option to members as required by legislation.

Six principles for good workplace DC

TPR has set out six principles which it considers are essential for promoting good DC scheme governance and design. The principles span the lifecycle of a DC scheme and will form the basis of TPR's regulatory approach as auto-enrolment is rolled out. Further tools and guidance will be issued during 2012.



Dates for your diary

Key dates (January to April 2012):

- 26 January** DWP consultation on thresholds for automatic enrolment closes
- 27 January** Amendments to employer debt legislation come into force
- 30 January** DWP consultation on general levy and PPF administration levy closes
- 31 January** HMRC consultation on draft regulations to allow commutation of small personal pension pots of £2,000 or less closes
- 10 February** HMRC consultation on draft Finance Bill clauses closes
- 14 February** Deadline for submitting quarterly Accounting for Tax return to HMRC (for the period ending 31 December 2011)
- End February** EIOPA expected to deliver its advice to the European Commission on the review of the IORP directive
- 21 March** Budget
- 23 March** DWP consultation on 'small pots' closes
- 30 March** Deadline for updating information held on Exchange (the Regulator's online database) for the purposes of the PPF levy
- 5 April** Deadline for notifying HMRC of intention to rely on fixed protection
- 6 April** Reduction in lifetime allowance from £1.8 to £1.5 million
- 6 April** Contracting out of the State Second Pension on a DC basis to be abolished
- 6 April** National insurance rebates for contracted-out DB schemes to reduce

by 0.5% of band earnings (by 0.3% for employers and 0.2% for employees)

- 6 April** Revaluation rate for guaranteed minimum pensions expected to increase from 4% to 4.75% for members leaving pensionable service on or after this date

- 6 April** 'Triple guarantee' for increasing basic state pensions to use CPI instead of RPI

Events:

Employer Masterclass, London

1 March – London • 15 May – London

DC Seminar series

17-26 April – Nationwide

Event booking

Book your complimentary place on our website: www.puntersouthall.com/events

Alternatively, get in touch with Sarah Tolson for more information on 0845 815 9879 or email her at events@puntersouthall.com

Where can I get further information?

To discuss any of the issues covered in this edition, please get in touch with:

Pensions: Grahame Cooper on 0780 308 9064 or by email to grahame.cooper@puntersouthall.com

International: Julia Whittle on +44 (0) 771 470 6056 or by email to julia.whittle@puntersouthall.com

Alternatively, speak to your usual Punter Southall contact.

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