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Current issues

November 2024

Articles this month:

Autumn Budget 2024—pensions news
Extending collectivization (less scary than it sounds)
Inflation announcements set increase expectations
Priority for MaPS dashboard
HMRC newsletters: October 2024
Annual report season

Autumn Budget 2024—pensions news

Chancellor of the Exchequer Rachel Reeves has delivered her first Budget. Despite a rumour mill that was even more frenzied than usual[1], and the threat of £40bn in tax rises and spending cuts, there were few directly pensions-related announcements. Most notably, major changes to the inheritance-tax treatment of pensions are coming, bringing significant new burdens for scheme administrators—although not until April 2027.

Inheritance tax (IHT)

The 'red book' Budget report says that unused pensions funds and pension death benefits will be included in the value of estates for IHT purposes, with effect from 6 April 2027. It says that this will remove the opportunity to use pensions as a vehicle for inheritance tax planning, and will affect around 8% of estates each year.

A consultation document published alongside the report says that this change will apply to unused defined contribution (DC) funds and to lump sum death benefits in defined benefit (DB) schemes. Pension scheme administrators will be primarily responsible for reporting and paying the IHT that is due.

Mineworkers' Pension Scheme

The Government plans to transfer the existing Investment Reserve Fund in the Mineworkers' Pension Scheme to its trustees, facilitating the award of additional benefits to members. It is also planning to review the future operation of the surplus-sharing arrangements.

Investment

The red book reminds readers that the Government plans on '*using the Pensions Investment Review… to unlock more pension fund investment into UK growth assets.*' In rather newer news, it also says that the

[1] The Government was chastised by the Deputy Speaker before the Chancellor's speech, over the volume of leaked Budget measures, which she suggested were breaches of the ministerial code.

Government is going to develop a social-impact investment vehicle, on which there will be industry consultation, and that details will be confirmed at Phase 2 of the Spending Review (set to conclude mid-2025).

Overseas transfers—and administrators

The Government is removing the exemption from the '*overseas transfer charge*' that applies when members of UK registered pensions schemes transfer to 'qualifying recognised overseas pension schemes' (QROPS) in the European Economic Area or Gibraltar. This change is effective immediately (from 30 October 2024).

The differences between the EEA and the rest of the world in the conditions that apply for overseas schemes to be considered QROPS will also be harmonized, from 6 April 2025. The scheme administrators of registered pension schemes will have to be UK-resident from 6 April 2026.

His Majesty's Revenue and Customs has published a policy paper and draft legislation for these measures.

State pension increase

The basic State pension (for those reaching pensionable age before 6 April 2016) and new State pension (for those attaining SPA thereafter) will increase in April 2025 by 4.1%, being the increase in the relevant measure of average earnings, and the minimum required by law.

Other announcements

Pensions, of course, are not everything. There were other notable remuneration-relevant changes in the Budget, including the following:

- The employer National Insurance Contribution rate will be increased from 13.8% to 15%, and the relevant threshold cut from £9,100 to £5,000—but see below—from 6 April 2025. This will be softened for some smaller businesses by an increase in the Employment Allowance.
- The income tax and National Insurance thresholds will be unfrozen from 2028/29, when they will begin to be uprated in line with increases in the Consumer Prices Index.

Of all the pensions tax reforms that were bandied about before the Budget (restricting contributions relief, levying NICs on employer contributions), the application of IHT to death benefits is perhaps the least disruptive. Nevertheless, the change is set to impose significant new responsibilities on scheme administrators, and there will be many details to be worked out—a fact likely reflected in the 6 April 2027 start date. The Chancellor said that she was closing '*the loophole created by the previous government*': presumably a reference to the 2015/16 'pensions freedoms'. In fact, the change goes much further, taking in defined benefit lump sum death benefits—even those paid under discretion. (The Chancellor also said that the loophole had been '*made even bigger when the Lifetime Allowance was abolished*': at least there seems little prospect of *that* rising from the grave this Hallowe'en.)

The red book reminds readers that the Government pledged not to increase taxes on working people. Although the increase in employer NICs can be said to abide by the letter of that promise, it is a dramatic increase in the cost of business, which will surely influence employers' remuneration policies. It will make salary sacrifice for pension contributions look even more attractive, but could leave employers less keen to share NI savings with their workforces.

Extending collectivization (less scary than it sounds)

Enabling collective DC master trusts

The Department for Work and Pensions (DWP) announced a six-week consultation exercise on legislation to permit the creation of collective money purchase (CMP)[2] schemes serving multiple, unconnected employers. The draft legislation follows an earlier consultation exercise that began in January 2023, and the Government's July 2023 response.

Recap

The legal framework for authorization and supervision of CMP schemes was included in the *Pension Schemes Act 2021*. As matters stand, CMP schemes can only be established for single employers, or multiple employers that are part of the same corporate group. Serendipitously (or not), the first CMP scheme to be authorized on those terms, the Royal Mail Collective Pension Plan (RMCPP), opened for business on 7 October 2024, the day before the DWP's announcement.

An extension of the scope of CMP schemes was always envisaged by the legislative draughtspersons. The Act itself makes provision for the removal of the single-employer restriction. The proposed change will not, therefore, require primary legislation.

Adaption to unconnected-employer schemes

The way the draft legislation would work would be to amend the Act so that in future there are two CMP-scheme sub-types: 'single or connected employer scheme' and 'unconnected multiple employer scheme'. Separate-but-parallel regulatory arrangements would apply to each type.

Many parts of the authorization and supervision regime for unconnected multi-employer CMP schemes would simply be copied across from the existing single- or connected-employer regime. However, there would be important differences, to reflect the potential for the new schemes to have numerous, unrelated participating employers, and the likelihood that some will be run as commercial propositions (the others are likely to be industry-wide schemes).

Unconnected employers

For example, it will be easier for unconnected multiple employer schemes to have differing contribution or accrual rates (or both) for different employers without a need to sectionalize. Sectionalization will still be necessary if changes to investment strategy will result in materially different accrual rates or benefit adjustments.

The requirement to have a benefit-adjustment mechanism would be adapted so that unconnected-employer schemes could have different annual increase targets for members belonging to different employers, reflecting the fact that those employers have participated in the scheme for different lengths of time. There would also be a threshold beyond which benefit adjustments could not take the form of annual increases; awards beyond that threshold would need to be given as one-off increases. The combination of those two requirements might mean that an 'overfunded' scheme would pay one-off increases in a particular year to some members but not others.

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[2] Commonly known as collective defined contribution, or CDC, schemes; however, 'collective money purchase' is the phrase used in legislation.

The DWP is concerned to constrain the degree of cross-subsidization that is built into unconnected multiple employer scheme designs, between members belonging to different employers. Cross-subsidies could arise, for example, if one employer has a younger workforce than another, because it becomes increasingly costly to provide for a given level of accrual as workers age (there's less time in which to benefit from investment returns).The DWP proposes that additional actuarial tests are carried out for unconnected multiple employer schemes, both in preparation for authorization, and annually after schemes are up and running. In broad terms, the new tests would require that the value of a year's expected benefit accrual is at least equivalent to the value of the contributions that are anticipated during that period. It would be possible to conduct this actuarial equivalence test either on a member-by-member basis, or in aggregate for each participating employer (the choice between the measures is made once, with no opportunities for chopping and changing thereafter).

Commercial ventures

The prospect of unconnected multiple employer schemes being run on a commercial basis has led the DWP to propose other distinctive features of the regime. Authorization to operate such schemes would lapse 18 months after the date of the application for authorization (although the trustees could apply for an extension of up to six weeks, if they have a good reason). The DWP says that this is meant to deter speculative applications.

Unconnected-employer schemes would also have an expanded list of persons who are subject to fitness and propriety requirements. The extra roles subject to such tests cover the scheme proprietor (the person responsible for meeting various costs involved in establishing and running the scheme), anyone responsible for marketing or promoting it, and its chief financial officer. The DWP is considering adding the role of chief investment officer to the list. None of a scheme's trustees will be able to act as its CFO or promote it.

The authorization criteria for an unconnected-employer scheme would require that it has systems and processes in place to prevent unclear or misleading marketing. Authorization would be precluded if unclear or misleading marketing has gone uncorrected. A decision to begin marketing, as well as any instance of misleading promotion, would be a 'significant event' that must swiftly be drawn to the Regulator's attention.

The DWP proposes that the trustees of an unconnected-employer scheme must generally (unless the Regulator requires that the scheme be wound up) have the option of running it on as a closed scheme. By contrast, conversion to a closed scheme is just one of the 'continuity options' that single or connected employer scheme trustees have on the occurrence of a 'triggering event' (such as the Regulator threatening to withdraw authorization)—the legislation doesn't say that running on must actually be on the table. The proposed requirement is intended to dissuade unconnected-employer-scheme proprietors from pulling the plug on otherwise-viable schemes for purely commercial reasons. Any occurrence that's likely to undermine the trustees' ability to pursue the closed-scheme continuity option would be immediately reportable to the Regulator.

Other triggering events, which require trustees to pursue one of the continuity options, would include the insolvency of the scheme proprietor, or the termination of its relationship with the unconnected-employer scheme. On the other hand, because the support of past participants is likely to be less important to an unconnected-employer scheme, the insolvency of a former scheme employer wouldn't be a triggering event.

Next steps

The consultation proposals are open for comments until 19 November 2024. The Government plans to lay finalized Regulations in 2025, and bring them into force as soon as possible thereafter. The Regulator's Code of Practice on the authorization and supervision of CDC schemes will be updated.

Decumulation-only schemes

The proposals that we have discussed in this article relate only to 'whole-of-life' schemes. One of the extension options that the previous Government was considering was the potential for decumulation-only arrangements as a new retirement solution for scheme members. The Labour-led DWP says that it is continuing to explore that possibility. In particular, it is interested in how such schemes would achieve the necessary scale for viability, the appropriate controls that would have to be put in place around marketing and the costs that members would pay.

Collective DC holds out the promise of relatively secure incomes that are substantially higher than those currently delivered by ordinary money purchase pensions. It's good to see evidence of Labour's commitment to developing the CDC concept, so soon after the general election and the launch of the first CDC scheme. The focus on scheme designs that constrain intergenerational risk sharing is essential. Such transfers of value between generations need to be carefully managed so that everyone feels fairly treated.

We'd like to see the Government keep up the momentum by moving on to decumulation-only arrangements and a wider array of available risk-sharing mechanisms, supported by default retirement processes. Industry support and innovation can help deliver that.

Inflation announcements set increase expectations

In mid-October 2024, the Office for National Statistics announced that the Consumer Prices Index (CPI) had risen by 1.7% over the period from September 2023 to September 2024. September's annual price-inflation percentage is conventionally the one used for minimum-increase purposes in the UK pensions realm, and the CPI measure of inflation has been preferred since 2010. So, over the coming months, that 1.7% figure is likely to appear in, or in the calculations underlying, numerous statutory orders providing for benefit increases in 2025.

For example, it's expected that the 1.7% statistic will be factored into the Revaluation Order that is due for publication before the year's end, and will determine the minimum increases to be made to the deferred final-salary benefits of early leavers who reach normal pension age during 2025. The legislation requiring increases to pensions in payment, where the benefit was accrued after 5 April 1997, points to the Revaluation Order, so it will pick up on the same 1.7% increase.

The earnings-related addition to the State pension (SERPS and S2P), for those who reached State pensionable age (SPA) prior to 6 April 2016, is also likely to increase next April by 1.7%. Increases to 'official' (public-sector) pensions in payment (and revaluation of deferred benefits under the legacy final-salary schemes[3]) are tied to that additional State pension increase.[4] By contrast, the basic State pension and the new single-tier State pension will increase by 4.1%. A non-statutory 'triple lock' policy has been applied in almost all financial years since 2011/12. Under that triple lock, the basic and new State pensions are increased by the greatest of

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[3] Each of the new career-average revalued earnings (CARE) schemes has its own formula for the revaluation of past years' pensionable earnings. For some, such as the Local Government Pension Scheme, that involves the September-to-September price-inflation change.

[4] Fans of *Dirk Gently's Holistic Detective Agency* will recognize the fundamental interconnectedness of all things.

earnings inflation, price inflation, and 2.5%. It is the relevant figure for the increase in average earnings[5] that prevails this time around.[6]

The hodge-podge of other benefits and benefit-related calculations that stand to be affected by the 1.7% increase includes:

- guaranteed minimum pensions (GMPs) in payment, to the extent that they were accrued after 5 April 1988;
- any excess over the full amount of the new State pension to which a person who reached SPA on or since 6 April 2016 is entitled because of transitional provisions; and
- the adjustment to the opening values of rights under defined benefit arrangements when calculating annual allowance pension input amounts for the 2025/26 tax year.

Most of the increases mentioned become certain only when the necessary statutory order is made. The confirmation of the inflation figures that are conventionally used allows for some planning ahead.

Priority for MaPS dashboard

The Pensions Minister, Emma Reynolds, made a Written Statement in the House of Commons on 22 October on the subject of pensions dashboards. She said that she has instructed the Pensions Dashboard Programme to focus its efforts on getting the MoneyHelper (MaPS) dashboard up and running, and to connect commercial dashboards thereafter.

The Statement reiterates the Government's support for the principle of enabling multiple commercial pension dashboards to provide savers with greater choice. However, 'in the interests of ensuring consumers have the best experience on dashboards, it is prudent to allow a period while only the MoneyHelper dashboard is operational.'

The Written Statement also says that the Government is committed to the existing connection timetable, and that it's 'too early to confirm a launch date for public use'.

HMRC newsletters: October 2024

In *Pension Schemes Newsletter 163*, His Majesty's Revenue and Customs (HMRC):

- summarizes the effects of two sets of regulations designed to rectify flaws in the lifetime-allowance-abolition rules;
- describes some changes to the processes for reporting and taxing certain lump sum payments under the new, post-abolition rules;
- updates its pension-flexibility-payment and scheme-registration statistics;

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[5] Specifically, it's the July 2024 figure for the ONS series '*Average Weekly Earnings (AWE): Whole Economy Year on Year Three Month Average Growth (%): Seasonally Adjusted Total Pay Excluding Arrears*'; mercifully, it can also be identified by its series identifier, KAC3.

[6] It's the only part of the triple-lock promise that the Secretary of State for Work and Pensions is statutorily obligated to honour, so would be expected to determine the State pension increase for next year even if the lock didn't exist.

- includes the now-standard reminder that scheme tax returns in future need to be submitted via the online Managing Pension Schemes service, and that schemes should therefore be migrated across from Pension Schemes Online; and
- says that the *authorized surplus payments charge* (ASPC) applies to the gross surplus amount, rather than the payment actually made to the employer, and that the *Pensions Tax Manual* will be updated with examples.

The final point, about the ASPC, is made via a terse statement at the end of the Newsletter, with no explanation of what prompted it (a simple explanation might just be 'the widespread existence of surpluses for the first time in decades'). It's not obvious to us, as legal laypersons, that HMRC's interpretation of the legislation is correct, even if it makes sense policy-wise. We'll be looking out for the promised PTM update, to see if that sheds any light on the matter.

Shortly after the Budget, HMRC also dashed off *Pension Schemes Newsletter 164*, summarizing the pensions-tax-related announcements.

It also says that pre-budget speculation can create an opportunity for the marketing of pensions liberation and tax-avoidance schemes. It asks that scheme administrators warn members about the potential for adverse financial consequences (including unauthorized payment charges), and says that they should obtain suitable advice from a regulated source. Lastly, it requests that readers raise any concerns about particular schemes they encounter using the email address pensions.compliance@hmrc.gov.uk.

Annual report season

The Pensions Ombudsman and the Pension Protection Fund (PPF) have published their annual reports for 2023/24.

The Ombudsman's annual report says that, despite a challenging year due to historical case load build-up, difficulties in retaining skilled staff and a cyber incident, the organization has made significant progress in reducing waiting times for cases to be heard.

The number of cases closed fell from 7,784 in 2022/23 to 6,634 in 2023/34, in large part due to the cyber incident that it experienced in June. Sadly, the Ombudsman's office was unable to replicate its 2022/23 feat of closing more complaints than it received.

In its annual report, the PPF announced that as of 31 March 2024, it had £32.1 billion of assets under management with investment returns of 7.2% helping its reserves grow from £12.1 billion to £13.2 billion over the financial year. Its funding ratio was166.5% at the end of March.

The report also confirms that the PPF has finalized all calculations for member payment uplifts (including those due to the *Hampshire* case) with payments made by the end of March 2024, where possible.

And Finally…

The House of Lords recently debated a 'Motion to Take Note' of the Pensions Regulator's draft revised Code of Practice on DB scheme funding. The Parliament website explains that a 'motion to take note' is a way for Lords members to make their views known and generate some debate on a subject, without asking their fellow peers to reach any particular decision at the end. There's a 40-day countdown ticking away in both Houses for the Code, after which the DWP can make an order bringing it officially into force (only four or so months late).

Labour peer—and, more importantly, former scheme actuary—Lord Davies moved the motion (motioned? emoted?), saying that the new funding requirements '*while well intentioned, are excessive.*' The DWP's spokesperson in the Lords, Baroness Sherlock, sprang ably to the new regime's defence (well, she stood up and spoke; there's maybe a bit less 'springing' goes on in the Lords than in other places). In the course of doing so she cantered (see 'springing' comment) through issues like access to surplus, non-interference with investment discretion, and trustee accreditation, all without inadvertently revealing anything hitherto unknown about the Government's policies.

It's not every day that one sees a reference to 'Macaulay duration' (a concept that *AF* can confirm is *not* covered in parliament.uk's glossary) in *Hansard*…

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