Department for Work & Pensions

Pension Schemes Bill 2014 to 2015: new pension flexibilities announced in the Budget

New amendments are to be laid with regards to the new flexibilities announced in the 2014 Budget to allow individuals who are over the age of 55 to access their defined contribution pension in whatever way they wish from April next year, subject to their marginal rate of tax and scheme rules. The Taxation of Pensions Bill deals with the tax changes and the Pension Schemes Bill deals with the related regulatory changes.

Guidance guarantee

The Government has tabled clauses which underpin the implementation of the 'guidance guarantee', so that all individuals with a defined contribution pension arrangement have the right to free and impartial guidance on how they might access their pension savings in retirement. These clauses will be inserted, as a new Part concerning pensions guidance, into the Financial Services and Market Act 2000.

Roles and responsibilities

HM Treasury will have overall responsibility for implementing the guidance service and the Bill confers a duty on the Treasury to ensure provision of pensions guidance.

The Government has recently confirmed the Treasury's delivery partners for the guidance service:

- the Pensions Advisory Service (TPAS) will be responsible for providing guidance on the telephone, building on its 30 years of expertise in giving guidance on a range of pensions issues over the phone; and
- Citizens Advice (England and Wales, Scotland and Northern Ireland) will be responsible for provision of face to face guidance across the UK, building on its trusted reputation and extensive experience of giving consumer advice and guidance. These channels will be complemented by online guidance, available on gov.uk, which is being developed by the Treasury, drawing on expertise from the Government Digital Service and the Money Advice Service.

The Bill confers an overarching function on the Treasury to make pensions guidance available, and the function of providing pensions guidance on behalf of the Treasury on TPAS and the three UK Citizens Advice bodies.

Criminal offence for impersonating the guidance service

The Government is very concerned about the risk of agents posing as official providers of guidance to take advantage of individuals as they make one of the most important financial decisions of their lives. That is why the Government has put in place a criminal offence to penalise individuals who behave in a manner likely to indicate that they are official providers of pensions guidance on behalf of the Treasury – or who describe themselves as such – when they are not. The offence is to be tried and punished in the same way as similar offences in the Financial Services and Market Act 2000.

Funding and expenditure

The Government believes that many firms in the financial services sector stand to gain from better informed and empowered consumers who, having sought guidance, are ready to engage with the retirement income market. That is why the Government has announced that the guidance service will be funded by a levy on the regulated financial services industry, and collected by the Financial Conduct Authority (FCA). The Bill allows the FCA to design the levy (with the Treasury's approval) and collect the levy, consulting in the usual way. The amount of the levy will be set by the Treasury.

The Bill also confers on the Treasury the power to incur expenditure on the guidance service, including the power to make grants to delivery partners.

Financial Conduct Authority standards for guidance providers

The Bill confers on delivery partners official status as designated guidance providers and gives the Treasury the power to confer this status on others bodies (such as sub-contractors or other future delivery partners). Designated guidance providers must comply with the FCA's standards and will be subject to monitoring by the FCA to ensure compliance. The standards regime will to help to ensure the quality and consistency of guidance provision across delivery partners.

The Bill provides a new legislative framework for the Financial Conduct Authority (FCA) standards regime. It places a duty on the FCA to establish standards to protect the individuals receiving guidance, having regard to its wider objectives as a regulator. It gives the FCA responsibility for monitoring compliance and to make recommendations to designated guidance providers and then to the Treasury, and equips it with the powers to carry out this role effectively. The Treasury has a backstop power to direct guidance providers to take remedial action in the event that it receives a recommendation from the FCA. The FCA will fund its relevant activities through a levy on designated guidance providers subject to FCA standards and monitoring.

Signposting to guidance

The Bill places a duty on the FCA to require contract-based pension schemes to signpost their customers to the guidance service at retirement. The FCA recently consulted on draft rules to effect this duty. Regulations placing requirements on trust-based schemes that mirror the FCA rules will be brought forward by DWP in due course.

Financial advice safeguard for transfers between defined benefit and defined contribution schemes[1]

New clauses will place a requirement for defined benefit schemes to check that an individual has taken advice from a professional financial adviser, who is independent from the transferring scheme and authorised by the Financial Conduct Authority, before the transfer out to a defined contribution scheme can be made. In most cases the individual pension member will need to pay for that advice, however the responsibility for paying will fall on the employer if the transfer is from a defined benefit section to a defined contribution section within the same scheme, or as a result of an employer-led incentive exercise. This safeguard was recommended by a large number of stakeholders to ensure that all pension fund members are fully informed before taking any decision, and to counteract the risk that a significant number of members act against their own best interests or are coerced out of the scheme. The requirement will not apply to small pot holders with pension savings below £30,000.

Extending the entitlement to transfer

The Bill will include clauses which will extend the current right for individuals to transfer money purchase or cash balance pension rights. Currently this right is limited to within one year of the scheme's normal retirement age. This right will be extended up to the point the individual accesses these pension savings. Members who have more than one category of benefit in the pot will also now have a right to transfer out all of the accrued benefits in respect of one category, whilst continuing to make contributions in respect of the other category if they wish. We are also

[1] Please note – the terms defined contribution scheme and defined benefits scheme are used here for brevity but do not relate to the new definitions in Part 1 of the Bill. The terminology in the Government Amendment will convey the precise technical meaning of these terms.

removing the current restriction on transferring contracted out defined benefit pension savings into a defined contribution section of the same scheme.

Other changes to Pensions legislation

Pensions legislation will also be amended to accommodate the new flexi-access drawdown funds and un-crystallised pension fund lump sums:

- Occupational pension schemes which provide MP and/or cash balance benefits will be able to change scheme rules to allow for them to offer drawdown and/or un-crystallised funds pension lump sums:
- Drawdown funds will be MP benefits for the purposes of pensions legislation: and
- Cash balance arrangements will be able to reduce amount to be designated as drawdown before NPA, if scheme underfunded.

In addition, once a scheme eligible for the Pension Protection Fund (PPF) has entered a PPF assessment period the new flexibilities, using the flexi-access drawdown or uncrystalised funds pension lump sum options, will only be available in relation to money purchase benefits. The PPF itself will not offer drawdown or UFPLS.

Schemes will also not be permitted to default members into an annuity, except in certain circumstances.

Timescale

Government intent is for all the measures in relation to the new pension flexibilities announced in the Budget to come into effect for April 2015. For Defined Ambition legislation, the aim is for required secondary legislation and any additional tax changes to come into effect for April 2016, so that employers considering options at the time of the ceasing of contracting out have more options available to them than at present.