Spotlight

Hewitt

A retirement and investment update from Hewitt Ireland

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Update on Pensions

The Social Welfare and Pensions Act 2009 has been enacted with no changes from the provisions proposed by Government as outlined in Spotlight 17. The Pensions Board has announced a further extension on the deadlines for the submission of funding proposals under The Pensions Act, and has issued guidelines in relation to the operation of the new powers now available under Sections 50 and 50A of the Act.

The Finance Bill which is currently before the Oireachtas will provide for a levy on insurance premiums which will increase the cost of some types of pension provision.

Extension of Deadline for Funding Proposals

In September 2008, the Pensions Board announced a 6 month extension to the deadline for the submission of funding proposals which arose due to a Scheme having a "negative" actuarial statement under Section 55 of The Pensions Act (i.e. a statement in the annual report by the Scheme Actuary stating that in his or her opinion the Scheme would not have satisfied the minimum funding standard or whose existing proposal went "off track" at the end of the year to which the report relates) with an effective date between 31 December 2007 and 31 December 2008 inclusive. The Pensions Board has now announced a further 6 month extension to the deadline for submission of funding proposals in such cases, which means that a Scheme which failed the minimum funding standard at 31 December 2007 has until 31 December 2009 to submit a funding proposal to the Pensions Board. This extra time will give Trustees and Employers the opportunity to consider the provisions of the Social Welfare and Pensions Act 2009 in deciding on the funding proposal to be submitted. For a scheme where the Trustees are required to submit an actuarial funding certificate with an effective date in the period to 31 December 2007 to 31 December 2008, a two year period also applies for submission of a funding proposal. There is, however, no extension to the deadline for submitting an actuarial funding certificate, which must be submitted to the Pensions Board within 9 months of its effective date or within 12 months of a negative actuarial statement if this is earlier. The Pensions Board has also stated clearly that there will be no further extensions for submission of funding proposals.

Guidelines for Operation of Section 50 and 50A

The Pensions Board issued guidelines on Friday 22 May 2009 setting out the approach that it intends to adopt in deciding whether to issue a direction to reduce the benefits in accordance with Section 50 or to grant its consent to a proposal by the Trustees to adjust the benefits in accordance with the newly inserted Section 50A of The Pensions Act. In these guidelines, the Board states that a reduction in Scheme benefits is a "serious loss for Scheme members" and that consent will be given to an application "only where it is satisfied that the proposed future operation of the Scheme is robust enough to make any further application unlikely". Accordingly, it would be necessary for Trustees to undertake a comprehensive review of the operation of the Scheme, including investment and funding policy and to consider all other possible approaches to meeting with the funding requirements, before making a submission to the Pensions Board for a reduction in accrued benefits. The Board highlights the need for Trustees to take actuarial and legal advice in considering an application to the Board in this context.

The guidelines also set out the information which must be provided to members about an application to the Pensions Board under these Sections, which includes details of the proposed benefit reductions by category membership and an explanation for treating members differently, if applicable, together with the reasons why the Trustees believe that this application is necessary and appropriate. Members must be given at least 1 month to submit observations on the proposals, which the Trustees and employer must consider, before making any application to The Pensions Board. When making the application, the Board will require Trustees to confirm that all members have received the communication, and to provide a copy of the documentation issued.

The Board will publish an application form for use in Section 50 and 50A applications, which will set out the detailed information required. This will include an assessment of the long term cost of the benefits provided under the Scheme based on prudent assumptions with regard to investment return and mortality. If the application incorporates a rate of contribution which is different from this, the Board will require an explanation of how this impacts on the sustainability of the Scheme. The Board will also seek a copy of the proposed deed of amendment to the Scheme rules.

Other Provisions of the Social Welfare & Pensions Act 2009

As outlined in Spotlight 17, the Act provides for a re-ordering of priorities of the winding-up of a Pension Scheme which includes guaranteed pension increases. The Pensions Board have confirmed that they will be revising the template actuarial funding certificate to reflect the new order of priorities. This would lead to an increase in the level of coverage for active and deferred members, and a consequent adjustment to the transfer value reduction currently being applied.

The Act also provided for the establishment of a State annuity provider, the Pensions Insolvency Payment Scheme (PIPS), but the regulations required to establish this have not yet been issued. There is no further detail of how this Scheme will operate but the Government has stated that it is intended to provide annuities more cheaply than commercial insurance providers, on terms which are cost-neutral to the State.

Finance Bill 2009

The Finance Bill gives effect to the provisions announced in the April Budget (Spotlight 16) and in particular includes the introduction of a levy on insurance premiums, applicable to all premiums received in respect of the relevant classes of business on or after 1 August 2009. This is later than the date outlined in the Budget speech of 1 June 2009, following representations from the insurance industry that it would not be possible to implement the changes by the date initially proposed. There has also been considerable lobbying to amend the terms of the levy so that it does not impact on pensions business, but as currently drafted the 1% levy will apply to premiums received on or after 1 August 2009 in relation to:

- Annuities
- Group Risk Premiums
- PRSA's
- Individual Pension Arrangements, including personal retirement bonds.

The legislation is currently before the Oireachtas and may be amended before enactment, but it would seem prudent for Trustees to ensure that all premiums due in respect of insurance or annuity business be paid prior to 1 August 2009, and to deal with any transfers to PRSA's or personal retirement bonds before that date to ensure that the members concerned do not suffer the impact of the levy on their funds.

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