

briefingpages

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PENSIONS ACT 2004 BRIEFING

Employers must now consult on major pension changes

Where major changes in company pension arrangements (including employer contributions to money purchase schemes) are proposed after April 6 2005 then a new prescribed consultation procedure must be followed before they can take effect. This change derives from the Pensions Act 2004 and is brought into effect by 'The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006

Amicus played a key role in persuading the Government to introduce legislation requiring consultation as part of our campaign to strengthen employee rights in relation to their pensions.

What changes are covered?

- closure of a scheme to new members or to further accrual by existing members
- introduction of or any increase in employee contributions
- any reduction in employer contribution to a money purchase scheme
- an increase in normal pension age/earliest age a member has a right to retire
- any change from defined benefits (e.g. final salary) to money purchase benefits
- changes in the basis of defined benefit accrual (e.g. a switch to a CARE basis)
- any reduction in the rate of future accrual of benefits

This last point includes changes proposed arising out of adjustments in benefits proposed as part of the process by which schemes may satisfy the new scheme funding requirements. Changes in contribution arrangements are covered for personal pensions and stakeholder pensions where the employer makes a contribution.

Where after consultation a lesser change of the same type is decided on then no further consultation need take place. However, where a different change is proposed there may need to be a separate consultation exercise. For this reason employers may choose initially to consult on a range of changes.

Who has to consult?

The employee/scheme member's employer is charged with the duty to consult even where changes may be being made by other parties i.e by a parent company, by trustees or by the Pension Regulator. The employer reports back responses to whoever is proposing/ making the change. There are some exclusions from the duty to consult. The main one follows the exclusions as apply in respect of the more general statutory Information and Consultation requirements and are based on the number of employees ;

April 2006 - Employers with more than 150 employees must consult

April 2007 – Employers with more than 100 employees must consult

April 2008 - Employers with more than 50 employees must consult

Employers with less than 50 employees are not covered by the requirement. However, in Guidance on the new Regulations, the Government has said they 'would encourage all employers, irrespective of their size, to consult their employees'

Who has to be consulted?

Consultation is required with active members – and prospective members – but not with deferred or pensioner members. The employer must make arrangements which secure that, so far as is reasonably practicable, all affected members are covered. The employer must choose to consult with one or more of:-

- recognised independent trade unions
- elected or appointed Information and Consultation representatives
- representatives specially elected for the purposes of pension consultation

where these arrangements are established.

Where none of these arrangements are in place then they must consult with the members directly. Where arrangements are in place but the employer considers that some affected members are not covered by them then they must consult with those members directly. Representatives involved in consultation must be provided with reasonable paid time-off and are protected against dismissal or detriment on account of carrying out their duties (in the same way as are pension trustees).

What information has to be provided?

Where a prescribed change is proposed information has to be provided to each affected member and to any representatives of the members who are to be consulted. The information provided must:-

- (a) be in writing
- (b) be provided before the start of the consultation period
- (c) describe the proposed changes
- (d) state what effect they would have on the scheme and on scheme members
- (e) be accompanied by any relevant background information
- (f) indicate the timescale for their introduction
- (g) be in such a form which enables representatives to fully evaluate them

'Relevant background information' would be taken as including relevant actuarial /funding information about the scheme. The Pension Regulator has indicated that, in relation to proposals to modify future accrual of benefits, such information is needed to make the consultation meaningful.

What must consultation entail?

The Regulations places a duty on the employer and those consulted 'to work in a spirit of co-operation, taking into account the interests of both sides' The Government Guidance on the Regulations supplements this by saying that consultation should comprise 'an exchange of views and the establishment of a dialogue'

A minimum of 60 days is laid down for the consultation period, which can only be reduced by direct permission of the Pension Regulator. As well as providing the required information before the start of the consultation period the employer must notify the date set for the end of consultation or for the submission of written comments.

The employer must report all responses to the consultation to whoever, if not themselves proposed the change. The responses must be considered before a decision to make the change is made.

Changes cannot be agreed by trustees unless they are satisfied that the statutory consultation has taken place. The Regulator has powers to issue orders, notices or directions to trustees and employers in the event that consultation has not been properly conducted and can fine employers who fail to consult.

WORKERS' MEMORIAL DAY, FRIDAY 28TH APRIL

Every year on 28th April we remember those who have been killed by their work. This year's theme is Prevention and Accountability. Workplace deaths are avoidable and poor health and safety is the cause. Amicus has been campaigning for a corporate manslaughter law, to make employers accountable for the health and safety of their employees. The Government has finally published a draft Bill which is being consulted on now. More details of this campaign can be found at www.amicustheunion.org/corporatekilling/.

The Amicus Education Department has some Workers' Memorial Day ribbons, posters, car stickers and lapel stickers, which members and reps can order from Roger Bates, 020 8315 8299, roger.bates@amicustheunion.org. If branches are having large events they can get larger supplies direct from Greater Manchester Hazards Centre, mail@gmhazards.org.uk, Tel 0161 636 7557, Fax 0161 636 7556, www.gmhazards.org.uk/events.htm.

Details of Workers' Memorial Day resources and events around the UK can be found at www.amicustheunion.org/wmd/. If you are involved in organising an event or hear about one that is not listed, please email the details to chris.o'leary@amicustheunion.org.

There is a Hazards Magazine briefing at www.hazards.org/wmd/. For more details see the latest issue. For subscription details contact sub@hazards.org, 0114 201 4265 or go to www.hazards.org/subscribehazards.htm.

2006 TUC SAFETY REP AWARD

Every year the TUC demonstrates and acknowledges the range of work undertaken by lay union reps on behalf of their members and the community. For the third year running, the TUC will be awarding the trade unionist who represents the best aspects of being a safety rep. The award will be made at the 2006 Congress, which takes place in Brighton from 11-14 September.

If you would like to nominate a safety rep download a form from www.amicustheunion.org/safetyrep2006/ or request one to be emailed or sent to you from Chris O'Leary in Research, chris.o'leary@amicustheunion.org, 020 7780 4006, to whom completed forms should be returned by 9 May 2006. Nominations must be signed by the General Secretary, Derek Simpson, so please do not send your nomination form direct to the TUC.

AMICUS HEALTH & SAFETY EMAIL LIST

For regular health & safety updates sign up to the Amicus health & safety news list by emailing chris.o'leary@amicustheunion.org or visit www.amicustheunion.org/safetynews/ regularly.

Members and reps unable to access any of the above electronically may contact Ray Cawley in the Research Department on 020 7780 4014 ray.cawley@amicustheunion.org here to receive the information by email or post.

Negotiating Information

Inflation Figures

2006	RPI Jan 2007=100	RPI	RPIX	CPI
Jan	193.1	2.1	2.3	1.9

2006	RPI Jan 2007=100	RPI	RPIX	CPI
Jan	188.9	3.2	2.1	1.8
Feb	189.6	3.2	2.1	1.6
Mar	190.5	3.2	2.4	1.9
April	191.6	3.2	2.3	1.9
May	192.0	2.9	2.1	1.9
Jun	192.0	2.9	2.2	2.0
July	192.2	2.9	2.4	2.3
Aug	192.6	2.8	2.3	2.4
Sep	193.1	2.7	2.5	2.5
Oct	193.3	2.5	2.4	2.3
Nov	193.6	2.4	2.3	2.1
Dec	194.1	2.2	2.0	1.9
Avg	192.0	2.8	2.3	2.0

2004	RPI Jan 1997=100	RPI	RPIX	CPI
Feb	183.8	2.5	2.3	1.3
Mar	184.6	2.6	2.1	1.1
April	185.7	2.5	2.0	1.2
May	186.5	2.8	2.3	1.5
June	186.8	3.0	2.3	1.6
July	186.8	3.0	2.2	1.4
Aug	187.1	3.2	2.2	1.3
Sept	188.1	3.1	1.9	1.1
Oct	188.6	3.3	2.1	1.2
Nov	189.0	3.4	2.2	1.5
Dec	189.9	3.5	2.5	1.8
Avg	186.7	3.0	2.2	1.3

Understanding inflation

The inflation rate is calculated from the prices of a range of different goods and services selected to represent average spending patterns in the UK. The Office for National Statistics monitors changes in these prices each month, and uses this to work out an average increase for the year. The different items in the 'basket' of goods and services are given different weights, so that things we spend more on, such as housing, motoring and food, are given more importance.

For more information on inflation see www.statistics.gov.uk or www.incomesdata.co.uk

Base Lending Rate for February 2006 is 4.5%

Average Earnings (excluding bonuses) 2005

2005	Whole Economy			Manufacturing			Public Sector		
	Average Monthly Increase	3 Month Average	3 Month Average	Average Monthly Increase	3 Month Average	3 Month Average	Average Monthly Increase	3 Month Average	3 Month Average
Jan	123.1	4.2	4.4	117.4	3.0	3.2	122.7	4.7	4.6
Feb	120.7	5.7	1.7	117.8	3.0	3.2	123.2	1.6	1.6
Mar	121.7	4.0	4.6	121.7	3.4	3.4	123.3	4.2	4.5
April	121.7	4.2	4.1	119.8	3.4	3.5	124.5	4.9	4.7
May	121.8	3.9	4.0	120.0	3.0	3.2	125.3	5.1	4.8
Jun	122.2	3.9	4.0	120.6	3.1	3.3	125.2	4.1	1.8
July	122.8	4.1	4.0	121.2	3.2	3.2	125.3	4.1	4.5
Aug	123.1	3.9	4.0	122.0	4.1	3.6	125.7	4.2	4.3
Sep	123.5	3.9	4.0	122.6	4.6	4.0	126.1	3.9	4.1
Oct	123.7	3.7	3.9	122.8	4.1	4.3	126.6	3.8	4.0
Nov	124.2	3.9	3.8	123.1	4.1	4.3	127.2	4.2	4.0
Dec	124.6	3.7	3.8	123.5	4.0	4.1	127.7	4.3	4.1

The three-month average figures are the changes in the average seasonally adjusted index values for the last 3 months compared with the same period a year ago.

Full-time average weekly earnings by occupation

	£pw		£pw
All workers	526.40	Admin & Secretarial	356.70
All Male	579.20	Skilled/craft	440.00
All Female	443.90	Services	305.80
Managers	791.80	Sales	289.10
Professionals	720.30	Operatives	402.70
Associate Professionals	558.00	Other manual jobs	319.90

The table above gives estimates of full time average weekly earnings by occupation. It is based on the figures from ASHE 2005, updated by A&I.

The National Minimum Wage

The National Minimum Wage was raised on 1 October 2005. From this date, the hourly rates are as follows:

- £5.05 for adult workers (22 and over)
- £4.25 for adult workers on accredited training in the first 6 months of a job
- £4.25 for the development rate (workers aged 18-21)
- £3 for 16-17 year olds (apprentices are exempt from this rate)

For more details see www.dti.gov.uk/en/nmw/index.htm

Negotiating Information on Amicus website

Amicus Research Department has created a new section on our website at www.amicustheunion.org/negotiatinginfo/ containing a variety of information to assist reps in their negotiations with employers. This includes information on GDP, RPI, economic indicators, a redundancy payment calculator, and this monthly negotiating information fact sheet, and will be updated regularly.