



July 2011

Finance No. 2 Bill/Pensions Update

1. Pension Fund Levy – 0.6% for 4 years

The legislation to give effect to the temporary pension fund levy has gone through the Oireachtas and on 22 June 2011, the President signed into law the Finance (No. 2) Act 2011. Various changes have been made to the levy since the Finance Bill was first published in May, aimed at making the administration of the levy easier. The Act remains quite poorly drafted and some sections are quite ambiguous and difficult to decipher. Supplementary advice should be sought in conjunction with this summary.

- **Annual Charge:** The first significant change to the final Act is that the levy will now be charged on an annual rather than a bi-annual basis. Resultantly, chargeable persons will be obliged to pay a stamp duty of 0.6% of the chargeable amount upon submission of their annual statement.
- **When will the Levy first apply?** The first due date for submitting the statement has been pushed back to 25 September 2011. This due date will remain the same for 2012, 2013 and 2014.
- **Scheme/Plans included:** Where the assets are held through a contract of assurance, the life company is responsible for remitting the levy. Life companies will therefore deduct the levy from all applicable pension policies (group retirement plans, executive pension plans, personal pension plans, PRSAs and personal retirement bonds) including investment only business and Trustee Investment Plans.
- **What is the valuation date?** The date for settlement of market value has also changed. The relevant date is now 30 June for 2011, 2012, 2013 & 2014. Life companies will likely deduct the levy by unit encashment on each policy as soon as practical after 30 June. Alternatively, it can be the market value as determined on the last day of a scheme accounting period which ended within 12 months of the 30 June date. This will only be the case where assets are not contracts of assurance and are held for the purposes of a scheme that is a defined benefit scheme or a one member scheme, and which prepares accounts to an “appropriate” accounting standard.
- **Schemes/Plans not included:** The levy will not apply to ARF’s, annuities (which are not assets of a scheme), vested PRSAs or vested personal pension policies. Also excluded are company pension schemes where the trustees have passed a resolution to wind up the scheme and the employer is insolvent, and company pension schemes set up for employees working outside the State.
- **What are the consequences of non-compliance?** The consequences for non-compliance remain the same as under the Bill as originally drafted. If statements and payments are not received on the due date, the chargeable person will be liable to pay €380 for every additional day thereafter as well as interest on any unpaid duty.



2. Employer contributions to PRSAs – no PRSI charge

The Department of Social Protection has confirmed that Employer PRSA contributions are not liable for PRSI – either for the employee or the employer. This is a welcome piece of news which goes some way towards correcting the imbalance between employer paid PRSAs and Defined Contribution Company Pension Plans. However, the Universal Social Charge remains on employer PRSA contributions – which means that an employee whose employer pays into his PRSA will still be 7% worse off than one whose employer pays into a DC Company Pension Plan.

3. Change in State Pension ages – Social Welfare and Pensions Bill 2011

The State Pension (Transition) will be abolished from 1st January 2014. The State Pension (Transition) is currently payable to some people aged 65 who must retire and satisfy the contribution and other qualifying conditions.

From 2014, there will be a standard State Pension age of 66 years for all. Existing recipients will continue to be entitled to this pension for the duration of their claims.

The qualifying age for the State Pension will rise from 66 years to 67 years from 2021 and to 68 years from 2028. These plans were announced last year and legislating for them at this time fulfils a commitment in the Memorandum of Agreement with the EU/IMF Programme of Financial Support for Ireland.

What does this mean in practice?

If you were born before 1949 you will continue to be eligible for the State Pension (Transition) at age 65 – subject to meeting the qualifying conditions.

If you were born from 1949 to 1954 inclusive, you cannot get a state Pension until age 66 – you will have a retirement income shortfall of €11,975* if you retire at age 65.

If you were born from 1955 to 1960 inclusive, you cannot get a State Pension until age 67 – you will have a retirement income shortfall of €23,950* if you retire at age 65.

If you were born in 1961 or later, you can't get a State Pension until age 68 – and you will have a retirement income shortfall of €35,925* if you retire at age 65.

What will employers do in terms of retirement ages when the State pension age changes?

Currently, the majority of employment contracts run to age 65.



Will employers allow their employees to work after age 65 as they will not be entitled to a State Pension?

The answer to the question is it will probably vary between employers and even between different employees of the one employer. One thing is clear though – workers will have to have a pot of money to maintain their standard of living between their retirement age and the date they get their State Pension.

*Based on the State Pension (Transition) amount for 2011

4. Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010/Finance (No. 3) Bill 2011

The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 came into force from 1st January 2011. However the necessary changes to the tax and social welfare codes were not made at that time. The legislation to equalise the tax and social welfare codes for Civil Partners to that currently enjoyed by married couples is going through the Oireachtas at the moment. The tax changes are contained in the Finance (No. 3) Bill 2011 and the remaining Social Welfare changes are in the Social Welfare and Pensions Bill 2011.

Civil Partners are same-sex couples who have formally registered a civil partnership in Ireland, or whose foreign relationship is recognised by the minister for Justice and Law Reform. Assuming the Finance and Social Welfare Bills become law, there will be essentially identical treatment between married couples and registered Civil Partners in all aspects of tax and social welfare benefits.

There are numerous implications of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 for pension schemes. Essentially scheme trustees need to review the rules, terms and conditions of their scheme to ensure that any registered Civil Partners are not discriminated against within the scheme. Also, trustees should review their risk benefit cover to ensure that Civil Partners are covered where necessary.

The information set out is based on our understanding of current and intended legislation as at June 2011. The information is general in nature and should not be relied upon without seeking appropriate advice.

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