

HM TREASURY
OFFICIAL COMMITTEE ON OCCUPATIONAL PENSIONS

NOTE BY THE SECRETARY

**THE OCCUPATIONAL PENSION SCHEMES (PENALTIES) REGULATIONS 2000; AND
AMENDMENTS TO THE OCCUPATIONAL PENSION SCHEMES (SCHEME
ADMINISTRATION) REGULATIONS 1996 AND THE OCCUPATIONAL PENSION
SCHEMES (MINIMUM FUNDING REQUIREMENT AND ACTUARIAL VALUATIONS)
REGULATIONS 1996**

I attach a copy of the above draft regulations circulated recently by DSS. Both the DSS and GAD have written to explain that one of the implications for public service pension schemes is the new proposed requirement to report late payments of additional voluntary contributions (AVCs), see paragraphs 8 and 9 of Annex A. Grant Ballantine, GAD, in his letter of 26 November which is attached for information, provides fuller details of the administrative implications for schemes of the reporting requirement.

It would appear that some schemes have had difficulties ensuring that AVCs deducted from a member's salary are paid promptly to the AVC provider and cases of late payment have gone to OPRA for investigation. Since late payment of AVCs can have a direct effect on the investment return on a member's contributions there is a good case for making AVC deductions subject to a reporting requirement and a civil penalty regime and we know that some schemes support this proposal.

It would be useful to receive comments from OCOP about whether schemes support the principle that late payments of AVCs should be reported and whether such a requirement is practicable. DSS have asked whether scheme managers are aware of when late payments arise and whether arrangements can be made with the AVC providers to report late payments. If you have any comments on these points or any others please send them by 5 January 2000 so we can prepare a coordinated return to DSS.

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Dear Peter

Late Payment of Additional Voluntary Contributions

- 1 I expect you will have just received the latest consultation document issued by the Department of Social Security on the subject of possible amendments to the Occupational Pension Schemes (Scheme Administration) Regulations 1996, and other miscellaneous matters. This latest document is the DSS response to some of the relatively minor issues raised in the paper entitled "Strengthening the Pensions Framework" which was released the day after the DSS Green Paper entitled "Partnership in Pensions", issued in December 1998. You and I have attended a meeting recently with DSS on some of the major issues raised in "Strengthening the Pensions Framework", but this recent communication is concerned with more minor matters.
2. There is, however, one issue of particular relevance to the public service schemes which is flagged up as a possible new burden on administrators of public service occupational pension schemes. Schemes which are subject to the Minimum Funding Requirement are also subject to a legal requirement to report to OPRA any circumstances where members' contributions are paid more than 19 days from the end of the month in which the contributions have been deducted from the member's salary. Schemes not subject to the Minimum Funding Requirement (and this includes all the main public service schemes) are not subject to the reporting requirements to OPRA in connection with the late payment of contributions. DSS are now considering that this position should be changed.
- 3 Tucked away in paragraph 9 of Section C of the Consultation Document, the statement is made that DSS are considering whether public service schemes should be required to report late payment of additional voluntary contributions. There is apparently no intention (yet) to impose a reporting requirement on the late payment of main scheme contributions. A reasonable case can be made for differentiating between main scheme contributions and additional voluntary contributions, since the member's benefits are unlikely to be affected by late payment of mainstream contributions, but there could be some disadvantage if money purchase AVCs are invested later than expected.

- 4 I am aware that some public service schemes have experienced particular difficulties in ensuring that any AVCs deducted from a member's salary are paid promptly to the AVC provider. If DSS proceed with their proposal, there will be a requirement to report to OPRA any payment of AVCs which is made more than 19 days after the end of the month in which the contributions were deducted from salary. A minor easement is proposed in so far as the reporting requirement will be waived if payment is made within the following 10 days, and if there have not been two previous infringements in the previous 12 months. However, given the number of employers participating in the main public service schemes, this easement is not likely to be of much assistance, unless it were to be applied at employer level rather than at scheme administration level.
5. Public service schemes have particular difficulties because of the large number of employers participating in the scheme, and the many different administration units involved. It might be regarded as unreasonable to expect the same procedures and reporting requirements to apply for a huge multi-employer scheme, if those requirements are designed to cope primarily with much smaller schemes and much more cohesive administrative units. However, if the reporting requirements were to be placed on each administrative unit, with the easement applied separately to each administrative unit, there might be a stronger case for bringing public service AVCs within the net.
- 6 As you will be aware, additional powers are to be given to OPRA to enable them to treat breaches of the requirements in regard to payment of members' contributions as civil offences rather than as criminal offences. Accordingly, the likely penalty for a material breach of the payment of contributions requirements would be a fine, possibly in the region of £1,000 for each individual case.
- 7 If public service schemes wish to persuade DSS that their proposal in relation to public service AVCs is inappropriate, or unnecessary, then it would be desirable for action to be taken before 12 January 2000, which is the final date for receipt of comments on the DSS consultation paper. I have sent a copy of this letter to MOCOP correspondents listed below.

Yours sincerely

D Grant Ballantine

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cc	J Wood (Cabinet Office)	J Gilbert } (Home Office)
	I McHenry (NHS)	M Hill }
	P Bleasdale (Teachers)	R Garden (SPPA)
	R Williams (MOD)	S McLean (NI)
	T Crossley (DETR)	S Albon (LCD)